



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शुक्रवार, 14 अक्टूबर, 2022 / 22 आश्विन, 1944

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, the 12th September, 2022

No. Shram (A) 6-2/2020 (Awards) L.C. Dharmshala.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased

to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court, Kangra at Dharamshala, H.P. on the website of Printing and Stationery Department i.e. "e-Gazette":—

Sl. No	Case No.	Petitioner	Respondent	Date of Award/ Order
1.	62/19	Tanpa Dorje	Director Horticulture & other	01-07-2022
2.	746/16	Roshan Lal	Eng.-in-Chief, HPPWD & Others	02-07-2022
3.	106/20	Raj Kumar	President Gurudwara, Paddal Mandi.	06-07-2022
4.	88/21	Saurabh Kumar	M/S Asterisk Healthcare, Haroli	14-07-2022
5.	135/17	Mahender Singh	E.E. HPPWD, Udaipur	14-07-2022
6.	134/17	Surender Singh	E.E. HPPWD, Udaipur	14-07-2022
7.	845/16	Basant Singh	E.E. HPPWD, Dharampur	15-07-2022
8.	208/15	Shree Pal	R.M, HRTC Sarkaghat, Mandi	16-07-2022
9.	65/18	Anchal Singh	Principal, DAV School, Baghni	20-07-2022
10.	161/17	Ramesh Chand	E.E. HPPWD, Shimla & others	22-07-2022
11.	70/22	President, Gen.Secy.	M/s Ranger Breweries, Mehatpur	22-07-2022
12.	518/16	Mehar Singh	D.F.O. Sunder Nagar, Mandi	23-07-2022
13.	519/16	Prakash Chand	D.F.O. Sunder Nagar	23-07-2022
14.	193/16	Manoj Kumar	RE, HPSEBL, Joginder Nagar	26-07-2022
15.	47/22	Rachna	M.D. Cambridge International	27-07-2022
16.	134/16	Suresh Kumar	RE, HPSEBL, Joginder Nagar	27-07-2022
17.	85/15	Tej Mal	E.E. HPPWD, Joginder Nagar	06-07-2022

By order,

AKSHAY SOOD,
Secretary (Lab. & Emp.).

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : 62/2019
Date of Institution : 23-05-2019
Date of Decision : 01-07-2022

Shri Tanpa Dorje s/o Shri Dorje Lundup, r/o VPO Hurling, Tehsil Spiti, District Lahaul & Spiti, H.P. . *Petitioner.*

Versus

1. The Director, Horticulture Department , H.P. Shimla-2
2. The Subject Matter Specialist (H), Spiti at Kaza, District Lahaul & Spiti, H.P. . *Respondents.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv.
 For the Respondent(s) : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Sh. Tanpa Dorje s/o Sh. Dorje Lundup, VPO Hurling, Tehsil Spiti, Distt. Lahaul & Spiti, H.P. by (i) The Director, Horticulture Department, H.P. Shimla-2 and (ii) The Subject Matter Specialist (Horticulture), Spiti at Kaza, Distt. Lahaul & Spiti, (H.P.) *w.e.f.* 01.9.2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers?”

2. The petitioner has come up with the case that he was engaged as daily wage beldar on muster roll by the respondent *w.e.f.* June, 2015 and worked as such till 31.8.2016 with interrupted work and despite of this successfully completed 180 days in the calendar year before his services were orally terminated without complying the provisions contained in Section 25-F of the Act. It is averred that the services of other workmen namely S/Shri Anil Kumar, Chhering Lamo, Padma and Chhewan Lamo were also terminated with the petitioner but later on they were re-engaged, whereas, no work was offered to the petitioner. On the aforesaid averments the petitioner has prayed for the relief of his reinstatement in services with full back wages, seniority, continuity in service etc.

3. The respondents have resisted and contested the petition on the plea that services of the petitioner were engaged temporarily on daily wage basis for summer season and he worked during the summer season *i.e.* from May, 2015 to November, 2015 and thereafter March, 2016 to August, 2016 subject to availability of funds and, therefore, the petition was not maintainable. The further case of the respondent is to the effect that the services of the petitioner were engaged for seasonal work under single line administration during May, 2015 to November, 2015 and thereafter March, 2016 to August, 2016 at PCDO, Hurling District Lahaul & Spiti subject to availability of work and funds and he worked till 31.8.2016 as no funds under the wage head were available with the replying respondent no.2 as the area where the work was executed was a snow bound area. It is submitted that neither any fictional breaks were given to the petitioner nor any provisions of the Act were violated as the petitioner was engaged only for seasonal work. The respondent admitted that petitioner had completed 180 days *w.e.f.* May, 2015 to November, 2015 and explained that since no work and fund were available, the services of petitioner were rightly disengaged after 31.8.2016. So far as the services of S/Shri Anil Kumar, Chhering Lamo, Padma and Chhewan Lamo are concerned, it is submitted that their services were reinstated in compliance of the Award of H.P. Industrial Tribunal-cum-Labour Court, Shimla. It is clarified that and no fresh hand was engaged. On such averments the respondents have prayed for dismissal of the petition.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those made in the reply.

5. From the pleadings of the parties and the crux of the reference following issues were framed on 06.10.2021 for determination:—

1. Whether termination of services of the petitioner by the respondents *w.e.f.* 01-09-2016 is illegal and unjustified, as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative, to what amount of back wages, seniority, past service benefits and compensation the petitioner is entitled to from the employer/respondent? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*

Relief.

6. I have heard learned counsel for the petitioner and learned Dy. D.A. for the respondents at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1 : Yes
Issue No. 2 : Partly yes
Issue No. 3 : No
Relief : Petition is **partly allowed** per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. District Lahaul & Spiti falls in hard snow bound area of the State where work cannot be executed throughout the year. Taking into account these peculiar weather conditions, the statute provides that in such hard areas required minimum working days shall be 180 in place of 240 in order to attract the provisions contained in Section 25-F of the Act. The petitioner, in this case, was therefore, supposed to complete the work of minimum 180 days in preceding 12 calendar months to claim the benefit of Section 25-F of the Act. The mandays chart of the petitioner has been placed on the record as Ext. RW1/B and it is an admitted document and can be safely relied upon by this court. As per this mandays chart, the petitioner had worked for 174 days in the year 2016 *w.e.f.* 31 March 2016 to 31 August 2016. Prior to this, he had worked in the month of November, 2015 for 11 days, October 2015 for 27 days. He had worked in between May 2015 to November, 2015 for 188 days. The services of the petitioner were allegedly terminated on 31.8.2016 and preceding 12 calendar months would go upto 01.9.2015. Thus for the purpose of this case the court has to count the working days of the petitioner *w.e.f.* 01.9.2015 to 31.8.2016 which are more than 180 days, as the petitioner has worked for 31 days in the month of September 2015, 27 days in the month of October, 2015 and 11 days for the month of November, 2015. Thus when the working days of the petitioner are calculated for the preceding 12 calendar months *w.e.f.* 31.8.2016 (in reverse order), it is proved that he has worked for more than 180 days in a calendar year before his oral termination. Legally, his services could not have been terminated without serving a notice upon him under Section 25-F by the respondent. Thus the oral termination of the services of the petitioner is bad on the face of it.

10. The petitioner has relied upon the awards passed five Reference Cases by the Industrial Tribunal-cum-Labour Court, Shimla in favour of Chhering Lamo and others as Ext. PW1/B, Ext. PW1/C, Ext. PW1/D, Ext. PW1/E and Ext. PW1/F. These five workmen had been working with the same respondents and their services were also orally terminated *w.e.f* 31.08.2016 along-with the petitioner. It is clear from the perusal of the awards that they were engaged one month prior to the petitioner on 01.5.2015. They had also completed 180 days in the preceding 12 calendar months before their termination. The Learned court passed the awards in favour of these workmen and ordered their reinstatement along-with seniority and continuity in service. These awards were passed on 17.12.2020 and the workmen have also been re-engaged by the respondent. Such facts are clear from the statement of Horticulture Development Officer Kalzang Chhukit (RW1). These facts were disclosed by him while he was subjected to cross-examination. He has stated that these persons were re-engaged after the order of the court *w.e.f* 28.12.2020 and their services have also been regularized. He has nowhere stated that the awards have been assailed by way of writ petition before Hon'ble High Court. Thus the awards have attained finality. All these persons have worked for more than 180 days in the preceding 12 calendar months like the petitioner, hence the case of the petitioner can not be treated differently from his co-workers. He is also entitled for the same treatment on the same set of facts.

11. The respondents have come up with the plea that the petitioner was engaged for seasonal work subject to availability of work and funds and his services were not taken after 31.8.2016 as work and funds were not available. It is the further case of the respondents that work is executed in Spiti Valley in between May to October and services of the petitioner were rightly disengaged. Shri Kalzang Chhukit (RW1) has tendered his affidavit Ext. RW1/A in which same facts are pleaded by him. In case, the respondents wanted to terminate the services of the petitioner for want of funds and work, the termination could not have been oral but it was for the respondents to follow the procedure as provided in Section 25-F of the Act as the petitioner had worked in continuity for preceding 12 calendar months for more than 180 days. No notice has been tendered on the record to prove that compliance of Section 25-F was made. It is not the case of the respondents that any compensation was paid to the petitioner. No retrenchment order was either passed or forwarded to appropriate Government in accordance with the provisions regarding the retrenchment. The services of the petitioner were simply disengaged on 31.8.2016 by some oral order is sheer non-compliance of the provision contained under Section 25-F of the Act. Thus the manner in which services of the petitioner were terminated is illegal and unjustified.

12. It was for the respondents to place on record any notification to show that the services of the petitioner were engaged only for summer season in order execute the work of the plantation of the fruit nursery. No notification has been placed on the record to show that the work in the area was only seasonal and not regular. When petitioner Shri Tanpa Dorje was subjected to cross-examination wherein he denied specifically that the work of plantation of fruit nursery alone was taken from him. He volunteered to state that all other work were got done from him. When similarly situated person were disengaged by the respondents on the same day and when all those workmen have been re-engaged by the respondent after the awards of the court dated 17.12.2020, it is but natural that the work and funds are still available with the respondent and there is no dearth of the same. Had there been no funds and work available with the respondents, the respondents would have after complying the orders of the Labour Court served a notice under Section 25-F upon Chhering Lamo and others and dispensed with their services after paying them the compensation as per the law. As already said hereinabove, these workmen have been regularized. Such facts has been disclosed by Shri Kalzang Chhukit (RW1) himself. It therefore, means that the respondents have the work and funds and for this reason after re-engagement of Chhering Lamo and others their services were not dispensed with after serving notice under Section 25-F upon them. The respondents rather regularized their services and these workmen are still working on regular basis with the respondents. The plea of the respondents to the effect that funds and work is

not available, and therefore, the services of the petitioner were dispensed with is thus incorrect on the face of it and is liable to be rejected. As aforesaid, in case the petitioner intended to dispense with his services after he had completed 180 days of work in the preceding 12 calendar months compliance of Section 25-F should have been made but since such compliance was made, such termination of his services is illegal on the face of it and the petitioner is entitled for the relief under the law.

13. The learned counsel for the petitioner has argued that the petitioner is entitled for the parity in the matter of relief and his case can not be treated differently from his co-workers. The learned Deputy District Attorney, on the other hand, has argued that there is no violation of Sections 25-G and 25-H of the Act as other workmen were senior to him (petitioner). He has pointed out and that those workmen were engaged on 01.5.2015, whereas, the petitioner was engaged in the month of June, 2015 hence he could not claim that juniors to him were retained. The learned Deputy District Attorney has argued that at the most that the violation, if any, is of Section 25-F of the Act and it is settled law by now that when the violation of Section 25-F alone, the appropriate relief is compensation as the department can again terminate his services after complying with Section 25-F.

14. It is very true that the latest trend in the law is to pay compensation in case of violation of Section 25-F unless there is violation of Sections 25-G and 25-H of the Act. However, the facts and circumstances of this case are very peculiar and cannot be ignored while granting the appropriate relief. The petitioner as well as other five workmen were disengaged on the same day *i.e.* 31.8.2016 by the respondent. These five workmen approached the Learned Labour Court-*cum*-Industrial Tribunal, Shimla and sought their reinstatement. The learned court allowed the petitions partly and directed reinstatement with continuity and seniority except back wages. The copies of awards have been placed on the record as Ext.PW1/B to Ext. PW1/F. Thus out of six workmen retrenched illegally on 31.8.2016, five workmen have been re-engaged in pursuance to the awards passed by the learned Labour Court, Shimla and the petitioner is the sixth one. The petitioner is also entitled for parity. The conduct of the respondents department needs to be highlighted here before choosing the appropriate in favour of the petitioner. The learned Labour Court, Shimla passed awards in favour of five workmen and ordered their reinstatement with seniority and continuity in service. The respondents did not feel aggrieved by these awards and these awards were not assailed before the Hon'ble High Court. Had these awards been assailed, such fact would have been brought on the record by Shri Kalzang Chhukit (RW1). He himself stated that these workmen namely Anil Kumar, Chhering Lamo etc. were re-engaged on 28.12.2020 and their services have been regularized. Thus the conduct of the department shows that the work and funds are available with the respondents and for this reason these workmen were re-engaged and awards were not assailed before the Hon'ble High Court on the plea that compensation should have been awarded instead of re-engagement. The respondents had the option always available even after reinstatement. The respondents could have served a notice under Section 25-F upon these persons and retrenched their services. It is thus the intentions of the respondents that are very material in this case. The respondents have not disengaged the services of these five workmen by serving a notice under Section 25-F upon them. Rather their services have been regularized which act on their part shows that the respondents are in need of these workmen and intend to retain them forever and for this reason neither the awards of the learned Labour Court, Shimla have been assailed nor the services of these persons have been disengaged by serving notice after complying with the order of the learned Labour Court, Shimla. When such is the conduct of the respondents, granting the relief of compensation to the petitioner would work injustice to him and he shall be subjected to inequality. The parity, therefore, demands that the petitioner is also entitled for the same relief as the respondents are not aggrieved at all by the orders of reinstatement of other five workmen. Thus the petitioner is also entitled for relief of reinstatement by taking into account peculiar facts and circumstances of this case. Otherwise injustice shall be worked to the petitioner

for no fault of his part. When five workmen who were disengaged with him on 31.8.2016 have been re-engaged and regularized in course of time, the petitioner cannot be asked to satisfy himself with compensation amount. He is also entitled for the same relief. Issues no.1 and 2 are decided accordingly. Since the appropriate Government has made the reference and the claim has been filed in support of the reference, it is held as maintainable and issue No. 3 is decided against the respondent.

RELIEF

15. In view of my discussion on the above issues, the claim petition is succeed in part and partly allowed. The respondents are directed to reinstate the services of the petitioner forthwith. He is entitled for seniority and continuity in service from the date of his illegal termination except back wages as he has not led categorical evidence to show that he has remained unemployed during this period. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 1st day of July, 2022.

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial, Tribunal,
Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 746/2016
Date of Institution : 18-11-2016
Date of Decision : 02-07-2022

Shri Roshan Lal s/o Shri Anant Ram, r/o Village Malon, P.O. Pehad, Tehsil Sarkaghat,
District Mandi, H.P. . .Petitioner.

Versus

1. The Engineer-in-Chief HPPWD, Nirman Bhawan, Shimla-2
2. The Executive Engineer, HPPWD Division Dharampur, District Mandi, H.P. . .Respondents.

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri N.L. Kaundal, Ld. AR
For the Respondent(s) : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether alleged termination of services of Shri Roshan Lal s/o Shri Anant Ram, r/o Village Malon, P.O. Pehad, Tehsil Sarkaghat, District Mandi, H.P. during 1998 by (i) the Engineer-in-Chief HPPWD, Nirman Bhawan, Shimla-2 (ii) the Executive Engineer, HPPWD Division Dharampur, District Mandi, H.P., who has worked as beldar on daily wages basis and has raised his industrial dispute after more than 16 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period during 1994 to 1998 and delay of more than 16 years in raising the industrial, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employers/management?”

2. The petitioner has filed the claim in support of the reference and pleaded therein that he was engaged on daily wages on muster roll basis as beldar *w.e.f.* 1994 and worked in such capacity till 1998 and also completed 240 days during every calendar year. His services were unlawfully terminated *w.e.f.* 1998 without serving the required notice on the pretext that work and funds was not available. As per the petitioner, the respondent had terminated services of more than 200 daily wagers during this period and 1687 workmen were again retrenched in February, 2004, in 2005 as many as 1087 workmen were retrenched and now most of them were re-engaged later on. The grievance of the petitioner is that workmen junior to him named in para no.3 of the claim were retained by the respondent over him and fresh hands were also engaged, who have been named in para no.4 of the claim. As per the petitioner, some of the workmen have been reinstated after the awards were passed in their favour but the petitioner was never re-engaged hence he served demand notice to the respondent on 19.12.2014. it is stated that still his services have not been re-engaged and in the aforesaid background he has prayed for the relief of reinstatement with continuity in service and all other consequential benefits.

3. The respondent has resisted and contested the claim and explained that the petitioner had worked in the month of March, 1999 only and that too for 23 days and he had neither worked in the manner as alleged nor completed 240 days as has been claimed by him. It is denied by the respondent that workmen junior to the petitioner were retained and fresh hands were re-engaged. It has been explained that few workmen were engaged on compassionate grounds and no violation of Sections 25-G and 25-H of the Act took place at any point of time. The petitioner is said to have approached the authorities by way of his demand after almost fifteen years and his case is said to be suffering from inordinate delay. As per the respondent, the petitioner had himself abandoned the work after 23 working days and he was neither retrenched nor he was told that funds and work was not available. The respondent has prayed for dismissal of the claim.

4. The petitioner has filed rejoinder and averred in the same that several workmen who had approached the courts after eight to ten years have been re-engaged by way of awards, and therefore, the delay is not the conclusive factor to be taken into account. Other averments made in the claim petition reaffirmed and denied those made in the reply.

5. On the pleadings of the parties, following issues were framed on 17.10.2017 for determination:—

1. Whether termination of the services of petitioner by the respondents during Sept. 1998 is/was illegal and unjustified as alleged? . . .*OPP.*
2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR.*

4. Whether the claim petition suffers from the vice of delay and laches as alleged? . . . *OPR*.

Relief.

6. I have heard learned Authorized Representative/ counsel for the petitioner as well as learned Deputy District Attorney for the respondents at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

<i>Issue No.1</i>	:	decided accordingly
<i>Issue No.2</i>	:	decided accordingly
<i>Issue No.3</i>	:	No
<i>Issue No.4</i>	:	decided accordingly
<i>Relief</i>	:	Petition is partly allowed awarding lump-sum compensation of ₹ 15,000/- per operative part of the Award.

REASONS FOR FINDINGS

ISSUES No. 1 to 4

8. All these issues are taken up together for the sake of convenience and to avoid repetition of evidence, however separate findings shall be recorded on every issue at the end.

9. The petitioner and the respondent have taken divergent stand. The petitioner alleges his termination, whereas, the respondent alleges abandonment on the part of the petitioner. The mandays chart tendered on the record as Ext.RW1/B has not been disputed and it is thus an admitted document. As per this document, petitioner worked in the year 1999 only for 23 days. Once the respondent department has taken the plea of abandonment, it has invited the onus upon itself to prove that the petitioner has abandoned the job.

10. It is well-settled that the plea of abandonment of work is a technical plea and, in case, a workman absents himself from the work without any intimation, no presumption of his having abandoned the job/work can be drawn. The abandonment should always be in express form. In case, the workman absents all of sudden from the work, the employer is under an obligation to call the workman by way of notice and ask him to resume the work or justify his absence. Since the Act is meant to act in the benefit of the workmen, the notice issued by the employer to the absentee workman should apprise such a workman of the consequences of such absence so that the workman is able to protect his interest. In case, the workman after having received such a notice does not resume the work, then the employer must record his satisfaction in writing to the effect that non-reporting to the work by such a workman despite of being informed and cautioned of the consequences of his absence amounts to abandonment of his work and such a workman has no intentions to work any further. Only thereafter the employer should proceed further to engage fresh hands in his place. In case such a procedure is not followed by the employer, he can not be permitted to take the plea of abandonment of the work by the workman.

11. In this case, it is neither pleaded nor proved by the respondent that any notice was served upon the respondent asking him to report to his duties. No notice was served upon the petitioner apprising him of the consequences, in case, he did not report back to the work. The petitioner left the work and the respondent took no steps to call him back. This is not an act of abandonment of work. The abandonment would have occurred in a situation when the petitioner

had not reported back to work after he was informed by way of notice apprising him of the valuable rights which he would not acquire in future on account of his failure to report to the work. The plea of abandonment is thus not established in this case.

12. It may be stated here that once the plea of abandonment of work taken by the respondent is rejected, the workman is not relieved of his duty to prove his case. Rejection of the plea of abandonment of work as taken up by the respondent impliedly means that the services of the petitioner were terminated by the respondent either by way of oral order or by not calling upon him to report back to the work. The termination is not the sole factor the court has to take into account, but it is one of the factor amongst others to be weighed while the relief of reinstatement is subject matter of consideration.

13. The promptness in raising the demand by the workman is the crucial factor, the court has to always weigh. The moment the dispute arises in which the major claim of reinstatement is involved, the workman should raise the demand at once without loss of time so that the matter is settled with promptness before the conciliation officer or referred to the court for an adjudication so that the issue is settled at earliest. The logic is simple on this insistence in raising the demand with promptness. In this manner the workman does not stay out of work for a longer period and the respondent is also not overburdened with the arrears of back wages. Above all, reinstatement of such a workman after giving him continuity in service and seniority over those who are already working, does not cause a sense of dissatisfaction amongst already working workmen. On the other hand, a workman, who sleeps over his rights and does not raise the demand with utmost promptness can not claim the relief of reinstatement as a matter of right. The court can in such cases mould the relief and grant compensation instead. The reasons for the delay are to be examined by the court before proceeding either way. In case, the delay is proved to have been caused not for the inaction on the part of the petitioner, the court can always take such a fact into account.

14. The petitioner has stepped in the witness box as PW1 and tendered on record his Affidavit Ext.PW1/A, the mandays chart of Sh. Shashi Kant as Ext.PW1/B and RTI information Ext. PW1/C. It is the reference itself that the demand was raised after 15 years by the petitioner from the date of his alleged retrenchment. It was for the petitioner to produce the material on the record to show that delay was not intentional, but it was caused for the reasons beyond his control. Neither the claim petition nor the evidence speak of the facts why the demand was raised after more than 15 years. The petitioner has thus not explained the delay in raising the demand and it is an established as well as admitted fact that the petitioner slept over his rights for around 15 years and raised the demand very late.

15. The next question the Court is supposed to look into before proceeding to examine further is whether there is a violation of the provision contained in Section 25-F of the Act or not. When the petitioner has worked for 23 days in the year 1999 does not touch the figure of 240 days. When such is the position, the provisions contained in Section 25-F of the Act are not even remotely attracted and there was no requirement of issuance of notice before the alleged termination.

16. The petitioner alleges that after his retrenchment new workmen were engaged and he was not given priority by issuing notice to him. The petitioner has placed reliance on the mandays chart of Shri Shashi Kant Ext. PW1/B on the record which shows that he was engaged by the respondent department in the year 2000 who was absolutely junior to the petitioner as the petitioner was initially engaged in the year 1999. Sh. Pramod Kashyap, the Executive Engineer (RW1) has admitted that persons shown in para No. 4 of the claim petition were junior to the petitioner and they are regularly working with the department since the year 2008. Thus, it is clear that after the

petitioner did not report to the work, new workmen were engaged and thus principle contained in Section 25-H were violated. As aforesaid, the respondent has although come up with the plea that the petitioner has himself abandoned the work, but the respondent has failed to prove this technical plea on the record by leading evidence as has been already held hereinabove. It impliedly means that the services of the petitioner were retrenched in the year 1999 by not calling him to work once he had absented himself. The respondent has since not taken the steps to call upon the petitioner to report to his work and perform the duty of such an inaction on the part of respondent amounts to termination of the services of the petitioner by conduct and engaging fresh hands without issuing notice to the petitioner amounts to violation of provisions contained in Section 25-H of the Act. Thus, the petitioner has been successful to prove that fresh hands were engaged without giving him a priority.

17. The petitioner is out of work from 24 March 1999 and he is said to have raised the dispute in the year 2014 after a period of about 15 years without any explanation for the long delay. He is thus proved to have slept over his rights. All these facts shows that the petitioner has not raised the demand on time and it took more than 15 years to raise the demand. In the aforesaid background, the delay of 15 years in raising the demand is fatal and the petitioner is proved to have slept over his right for years together despite of the fact that cause of action for raise the demand had arisen to him *w.e.f.* March 1999 itself. In these facts and circumstances, the reinstatement cannot be ordered as such reinstatement after long period shall act as a discouragement to those workmen who are working continuously and a person who has not worked at all shall become their senior and get the services benefits before them. Such reinstatement shall involve unnecessary financial burden on the State and the petitioner can not be rewarded for the delay caused by him in raising the demand. Had the petitioner raised the demand at earliest position would have been different. His claim for reinstatement certainly suffers from the delay and laches for which he is solely responsible. He should have realized long back that he has to raise the demand on time. Thus the claim of the petitioner for reinstatement can not be favourably considered.

18. It is by now settled law that where the relief of reinstatement is refused to the petitioner on the ground of delay in raising the demand, the relief can be molded by the court and he can be granted compensation instead of reinstatement for the loss he has suffered. In the case in hand also, taking into account the number of the years the petitioners has worked and failure of the respondent in proving the plea of abandonment as taken by it, the petitioner needs to be compensated in terms of money by awarding compensation. Taking into account the age of the petitioner coupled with the fact that he has worked for a small tenure with the respondent in the past and further the fact that he was never recalled by way of notice by the respondent when he had absented himself. It is therefore held that the termination of the services of the petitioner in the aforesaid manner was illegal and unjustified. Issue No. 1 is held in affirmative.

19. Since the petitioner has caused inordinate delay in raising the demand, therefore, for the reasons recorded hereinabove, the petitioner is liable to be compensated by awarding a sum of ₹ 15000/-. The issue No. 2 is therefore decided accordingly.

20. Since the appropriate Government has made the reference and the claim has been filed in support of the reference, it is held as maintainable and issue No. 3 is decided against the respondent.

21. It has already been held that there has been inordinate delay in raising and for this reason the relief claimed has been molded towards grant of the compensation, the issue No. 4 is decided accordingly.

RELIEF

22. In view of my discussion on the above issues, it is held that though there had been violation of Sections, 25-G and 25-H of the Act by the respondent, in this case, but since the petitioner had raised demand after a gap of 16 years his claim for reinstatement has thus been frustrated by delay and laches, hence reinstatement and other consequential service benefits cannot be granted in his favour, yet he is held entitled for compensation to the tune of ₹15,000/- (Rupees Fifteen Thousands only), which would be paid within four months by the respondent from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their own costs.

23. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 2nd day of July, 2022

(HANS RAJ),
Presiding Judge Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.) (CAMP AT MANDI)

Ref. No. : 106/2020
Date of Institution : 20-11-2020
Date of Decision : 06-07-2022

Shri Raj Kumar s/o Shri Kamal Dev, r/o Village Silh, P.O. Jejwin, Tehsil Jhandutta, District Bilaspur, H.P. . *Petitioner.*

Versus

The President, Gurudwara Prabandhak Committee, Paddal Gurudwra, Paddal, Tehsil Sadar Mandi, District Mandi, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Petitioner in person
For the Respondent : Respondent in person

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the termination of services of Shri Raj Kumar s/o Shri Kamal Dev, r/o Village Silh, P.O. Jejwin, Tehsil Jhandutta, District Bilaspur, H.P. *w.e.f.* 01-10-2019 (as alleged by workman) by the President, Gurudwara Prabandhak Committee, Paddal, Gurudwara, Paddal, Tehsil Sadar Mandi, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. By way of this claim the petitioner has averred that he was engaged as Electrician in Gurdwara Shri Guru Gobind Singh Ji, Paddal District Mandi, H.P. *w.e.f.* May, 2008 and Rs.7,000/- per month wages were paid to him along-with accommodation. The petitioner has further pleaded that he had completed 240 days continuous service interrupted worked up to 1st October, 2019 when his services were abruptly dispensed with without following the procedure of the law which is sheer violation of Section 25 of the Act. As per the petitioner, the demand notice was served by him yet nothing was done and when the conciliation proceeding took place, the reference has been forwarded by the appropriate Government for answer upon the same. On such averments, the petitioner has prayed that his claim petition be allowed and the reference be answered in positive.

3. The respondent has resisted and contested the petition and taken up the plea that the claim petition was not covered under the Industrial Dispute Act and this Tribunal has no jurisdiction to try and entertain the reference. It is further submitted that no violation of any provisions of law was committed by the respondent and the petitioner was not entitled for any relief.

4. Before the petitioner could file rejoinder the parties entered into compromise and Shri Gurdeep Singh, President, Gurudwara Prabandhak Committee, Paddal Mandi has appeared and stated on oath that the services of the petitioner have been re-engaged and he is now working in the same manner. The petitioner has also made the statement to the effect that since he has been re-engaged, hence, he was not interested in the present matter.

5. Since it is a reference, therefore, it is to be answered by this court and the reference cannot be withdrawn.

6. Since the petitioner has been re-engaged, therefore, the reference has rather become infructuous and the petitioner has also led no evidence on record to prove that his services were terminated without following the provisions of the Industrial Disputes Act. Therefore, the reference is answered in negative though a compromise taken place between the parties and the services of the petitioner has been re-engaged. Parties are left to bear their costs.

7. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 6th day of July, 2022

(HANS RAJ)

*Presiding Judge, Labour Court-cum-Industrial Tribunal
Kangra at Dharamshala, H.P.(Camp at Mandi).*

**Raj Kumar vs. The President Gurudwara Prabandhak
Committee, Paddal Mandi
Reference No.106/2020**

06 July 2022

Present : Petitioner in person Sh. Deepak Azad, Ld. Adv. for the petitioner

Shri Gurdeep Singh, President Gurdwara Prabandhak Committee, Paddal Mandi for the respondent.

Claim petition/Reference is disposed of vide separate Award on the record and the reference is answered accordingly. The file after its due completion be consigned to the record rooms.

Announced:
06.7.2022

(HANS RAJ),
*Presiding Judge Labour Court-cum-
Industrial Tribunal, Kangra at,
Dharamshala, H.P.(Camp at Mandi).*

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Ref No. : 88/2021
Date of Institution : 13.07.2021
Date of Decision : 14.07.2022

Shri Saurabh Kumar s/o Shri Jaswinder, r/o V.P.O. Bathu, Ward No.7, Tehsil Haroli, District Una, H.P. . *Petitioner.*

Versus

The Managing Director/Employer, M/S Asterisk Healthcare, V.P.O. Bathri, Tehsil Haroli, District Una, H.P. . *Respondent.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947.

For the Petitioner : None for the petitioner
For the Respondent : Sh. Ankur Soni, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the termination of services of Shri Saurabh Kumar s/o Shri Jaswinder, r/o V.P.O. Bathu, Ward No.7, Tehsil Haroli, District Una, H.P. w.e.f. 01-09-2020 by the Managing Director, M/S Asterisk Healthcare, V.P.O. Bathri, Tehsil Haroli, District Una, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/Management?”

2. It may be stated here that the notice was issued to the petitioner (Shri Saurabh Kumar) which was duly served upon him through his father. Despite of this, the petitioner did not appear

before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 14th day of July, 2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Ref No. : 135/2017
Date of Institution : 21.06.2017
Date of Decision : 14.07.2022

Shri Mahender Singh s/o Shri Govind Ram, r/o House No.73/3, Jail Road, Mandi Town,
District Mandi, H.P. . .Petitioner.

Versus

The Executive Engineer, Chenab Valley Division, H.P.P.W.D. Udaipur, District Lahaul &
Spiti, H.P. . .Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Virender Guleria, Ld. Adv.
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Mahender Singh S/O Shri Govind Ram, R/O House No.73/3, Jail Road, Mandi Town, District Mandi, H.P. during May, 2014 by the Executive Engineer, Chenab Valley Division, H.P.P.W.D. Udaipur, District Lahaul & Spiti, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has averred in the claim that he was engaged as daily waged beldar on muster roll basis by the respondent no.1 in May, 2012 and his services were interrupted time to time so as to make him ineligible for the accruing benefits under labour laws and his services were

terminated in the month of May, 2014 without complying with the mandatory provisions of law despite of the fact that he had completed 240 days in the calendar year. The respondent employer is said to have neither prepared the seniority list nor issued the casual cards and nor adhered to the principle of 'first come last go' and thus termination of the services of the petitioner are in violation of Sections 25 F, 25-G and 25-H of the Act as fresh hands were also engaged after the termination of the petitioner. On such averments, the petitioner has averred that he approached the respondent no.1 time and again praying for his re-engagement but his prayers were not considered. Efforts before Conciliation Officer Kullu failed and thus the reference. On such averments, the petitioner has claimed his reinstatement after condoning the interruption/fictional breaks and all the consequential benefits including regularization of the services.

3. The respondent has resisted and contested the petition on the averments that the services of the petitioner were engaged through contractual labour in terms of conditions nos. 6 and 19 of the award letter no.1601-04 dated 03.5.2012. It is submitted that the petitioner was infact engaged by Shri Tenzin contractor and his services were governed by the contractor, hence, no seniority list was liable to be prepared. It is submitted that termination of the services of the petitioner is not illegal and the provisions of the Act are not applicable. Other allegations are denied. It is submitted that the petitioner is not entitled for any relief.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those in the reply.

5. On the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether termination of the services of the petitioner by the respondent during May, 2014 is/was illegal and unjustified, as alleged? . . .*OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

<i>Issue No.1</i>	:	decided accordingly.
<i>Issue No.2</i>	:	decided accordingly
<i>Relief</i>	:	Petition is partly allowed awarding lump-sum compensation of ₹ 1,00,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 and 2

8. Both these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The respondent has come up with the specific plea that the petitioner and other likewise workmen were engaged through contractor after tenders were invited hence the petitioner is not a workman of the respondent, and therefore, he can not get the relief under the Act. In support of such plea, the respondent has also led evidence by examining Shri B.C. Negi, Executive Engineer, Chenab Valley, HPPWD Udaipur as RW1. He has tendered his affidavit Ext.RW1/A pleaded therein specifically that tenders were invited for contractual labour and award letter was issued in favour of Shri Tenzin and he had deployed workmen as per the terms and conditions of award letter. This witness has tendered on record the award letter in favour of Shri Tenzin as Ext. RW1/B, the mandays chart of the petitioner Ext. RW1/C and list of workmen supplied by the contractor Ext. RW1/D. He has also tendered on record the notice inviting the tenders as Ext.RW1/E. The petitioner has also been cross-examination on the same lines. The only question is to be decided by this court is whether the petitioner is proved to be a contractual employee deployed through contractor Shri Tenzin or the petitioner is proved to be a workman of the respondent. This question finds its answer in the documents filed and proved on the record by the respondent department itself. Notice inviting tenders Ext.RW1/E is very important document and it is clear from the same that this notice was issued on 04.04.2012 and it was circulated widely in order to invite the tenders for deployment of 250 workmen skilled and unskilled for the working season of 2012-2013. Such fact is clearly mentioned in the notice and as many as 28 terms and conditions also have been incorporated in this notice. Condition nos. 21 and 22 are also very important which speak of the facts that if the contractor fails to supply the entire labour within a month after issuance the order in favour then his quotation for the next year shall not be entertained. It is thus very much clear that this tender was invited for the year 2012-2013 only and a fresh tender was to be invited for the working season of 2013-2014. On the completion of this tender process the work was awarded in favour of Shri Tenzin as is clear from award letter Ext.RW1/B dated 03.5.2012. This contractor Shri Tenzin supplied 10 workmen as is clear from document Ext. RW1/D on the record. The petitioner has been shown at serial no.9 as Mahender Singh s/o Shri Govind Singh. It is therefore, very much clear from these three documents read in the light of each other that tender was invited for the one working season of 2012-2013 and the award letter was also issued in favour of Shri Tenzin for the year 2012-2013. It is also clear from the terms and conditions that new tender was to be floated every year. This work awarded in favour of Shri Tenzin was come to an end in the year 2013. The mandays chart of the petitioner filed by the respondent itself as Ext. RW1/C is very material document. It is clear from this document that the petitioner had worked for 21 days in May 2012 and thereafter he worked for 30 or 31 days according to the number of days of each month till April 30. Since the tender work was allotted in May, 2012 for one year, the tender had come to an end in April 2013. After April 2013 it was for the respondent to call for fresh tenders and deploy the labour for the working season of 2013-2014. No such document has been placed on the record by the respondent to show that any fresh tenders were invited and Shri Tenzin again participated in the same and was declared as a successful bidder and thereafter work was awarded to him and he worked with the same labour. Which was deployed during the year 2012-2013. there are neither pleading nor evidence on the record to prove that the work allotted in favour of Shri Tenzin for the working season of 2012-2013 was extended for the year 2013-2014 as well. The respondent is absolutely silent on this aspect. When the mandays chart Ext.RW1/C is carefully examined it is clear that in May, 2013 the petitioner has worked for 26 days and from June to November he has worked for 30 or 31 days as per the number of days falling in particular month. In December he has not worked for a single day and from February 2014 to May 2014 he has worked for 23, 26, 29 and 06 days respectively. When the tender work allotted in favour of Shri Tenzin has come to an end in April 2013 in which capacity the petitioner was made to work in the month of May, 2013 and thereafter upto May 2014? There is no material on the record placed by the respondent. When no fresh tender was floated and when no work was allotted to any other contractor for the working season of 2012-13, it is thus but natural that the petitioner was retained in the work by the respondent in personal capacity after the first tender was over. It is thus evident that muster rolls were issued to him after April 2013 till May 2014 numbers

whereof have been mentioned in the mandays chart. When there is no material on the record to suggest that the labour was obtained from a particular contractor for the working season 2013-2014 the only presumption goes that the petitioner was engaged in the year 2013-2014 by the department on daily wages on muster roll and the plea of the respondent that the work was got executed from the petitioner on contract basis throughout is wrong and is not established. At the most, it is established that till April, 2013 the petitioner worked through contractor and thereafter he worked directly with the respondent on muster roll basis. The services of the petitioner have been terminated in May 2014. In case twelve calendar months are counted in reverse order from May 2014 it goes upto June, 2013. Thus when the working days of the petitioner are calculated for the preceding 12 calendar months *w.e.f.* May 2014 (in reverse order), it is proved that he has worked for more than 240 days in a calendar year before his oral termination. Legally, his services could not have been terminated without serving a notice upon him under Section 25-F by the respondent. Thus the termination of the services of the petitioner is bad on the face of it.

10. The next question to be considered is whether the respondent has retained junior workmen and retrenched the services of the petitioner, and secondly, whether the respondent has engaged fresh hands after services of the petitioner were terminated. Such pleadings have been made by the petitioner in para nos. V, VIII and IX of the claim. The respondent, on the other hand, has denied these allegations as incorrect and has come up with the case throughout that the labour was engaged through contractor and the labour did not belong to the department. The further defence of the respondent is to the effect that neither any junior was retained nor any fresh hand was engaged as has been alleged. When such is the factual position, it is for the petitioner to at-least lead prima-facie evidence on the record to make this court to draw an inference that junior workman to the petitioner was retained at the time when his services were terminated, and secondly, after his termination fresh hands were engaged without giving him an opportunity to join. The petitioner has led no evidence on this aspect and has merely sworn his affidavit with vague averments. Such affidavit is not sufficient to discharge the onus placed upon the petitioner. He has nowhere mentioned name of any of the labourer who was retained at the time of his termination. The petitioner has not mentioned name of any labourer who was engaged after his termination. The respondent has not produced on record the seniority list on the plea that no such seniority list was maintained as the workmen are not engaged directly by the department but they were engaged through the contractor. The respondent has filed only a list of ten workmen who are claimed to have been supplied by contractor Shri Tenzin and name of the petitioner figures at serial no.9. It is not the case of the petitioner that out of these ten person the only workman shown at serial no.10 Mithu Kumari Sharma has been retained. When it is not his case, then he can not contend that the workmen junior to him were retained. When the petitioner has not named any workman specifically in the pleadings and in the evidence, the onus is not shifted upon the respondent and the respondent is not supposed to lead evidence in negative form. Had the petitioner named any workman specifically in the pleadings and in the witness-box, the onus would have shifted upon the respondent to prove the things otherwise. When such is the position, the petitioner has failed to prove that any person junior to him was retained at the time of termination of his services and fresh hands were also engaged after his services were terminated. Thus violation of Sections 25-G and 25-H of the Act is not established, although there is violation of Section 25-F of the Act as has already been discussed hereinabove.

11. By now the law is well settled when there is only violation of Section 25-F of the Act, the courts are bound to pass the award regarding reinstatement of the workman as in case the workman is reinstated, the employer is still at liberty to issue notice under Section 25-F of the Act to him and after compliance of the said Section terminate his services. It is also well settled law that workman on daily wage basis does not hold anypost as such workman is not engaged against the regular post. It is also settled law that in case violation of Section 25-F of the Act is coupled with the violation of Sections 25-G and 25-H only then the reinstate is the rule, in case, other factors are

in favour of the petitioner. Otherwise the rule is that grant of compensation instead of reinstatement.

12. In the case in hand, since the violation of the provisions of Sections 25-G and 25-H of the Act is not established, therefore, the petitioner can not claim reinstatement as a matter of right, as in case, he is ordered to be reinstated, the department is still at liberty to terminate his services after complying with the provisions contained in Section 25-F of the Act. In these facts and circumstances the appropriate relief to which the petitioner is entitled to is grant of compensation in his favour.

13. Taking into account the fact that the petitioner has worked for more than 240 days in continuity before his services were terminated by the respondent in violation of the provisions of Section 25-F of the Act coupled with the fact that the petitioner had raised the issue before appropriate authorities on time and has pursued his claim throughout coupled with the fact that he is a young man and had served in the hard area of the State, ends of justice shall meet in case the respondent department is directed to pay compensation of ₹ 1,00,000/- (Rs. One Lakh Only) to the petitioner. Both these issues are decided accordingly.

RELIEF

14. In view of my discussion on the above issues, it is held that though there had been only violation of Section 25-F of the Act in this case yet the relief of reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of ₹ 1,00,000/- (Rupees one lakh only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 14th day of July, 2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref No. : 134/2017
Date of Institution : 21.06.2017
Date of Decision : 14.07.2022

Shri Surender Singh s/o Shri Tej Singh, r/o House No.73/3, Jail Road, Mandi Town, District Mandi, H.P. . .Petitioner.

Versus

The Executive Engineer, Chenab Valley Division, H.P.P.W.D. Udaipur, District Lahaul & Spiti, H.P. . .Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Virender Guleria, Ld. Adv.
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under Section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Surender Singh S/O Shri Tej Singh, R/O House No.73/3, Jail Road, Mandi Town, District Mandi, H.P. during May, 2014 by the Executive Engineer, Chenab Valley Division, H.P.P.W.D. Udaipur, District Lahaul & Spiti, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. The petitioner has averred in the claim that he was engaged as daily waged beldar on muster roll basis by the respondent no.1 in May, 2012 and his services were interrupted time to time so as to make him ineligible for the accruing benefits under labour laws and his services were terminated in the month of May, 2014 without complying with the mandatory provisions of law despite of the fact that he had completed 240 days in the calendar year. The respondent employer is said to have neither prepared the seniority list nor issued the casual cards and nor adhered to the principle of 'first come last go' and thus termination of the services of the petitioner are in violation of Sections 25 F, 25-G and 25-H of the Act as fresh hands were also engaged after the termination of the petitioner. On such averments, the petitioner has averred that he approached the respondent no.1 time and again praying for his re-engagement but his prayers were not considered. Efforts before Conciliation Officer Kullu failed and thus the reference. On such averments, the petitioner has claimed his reinstatement after condoning the interruption/fictional breaks and all the consequential benefits including regularization of the services.

3. The respondent has resisted and contested the petition on the averments that the services of the petitioner were engaged through contractual labour in terms of conditions nos. 6 and 19 of the award letter no.1601-04 dated 03.5.2012. It is submitted that the petitioner was infact engaged by Shri Tenzin contractor and his services were governed by the contractor, hence, no seniority list was liable to be prepared. It is submitted that termination of the services of the petitioner is not illegal and the provisions of the Act are not applicable. Other allegations are denied. It is submitted that the petitioner is not entitled for any relief.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the claim petition and denied those in the reply.

5. On the pleadings of the parties, following issues were framed while keeping in mind the reference received:—

1. Whether termination of the services of the petitioner by the respondent during May, 2014 is/was illegal and unjustified, as alleged? . . . *OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

<i>Issue No.1</i>	:	decided accordingly.
<i>Issue No.2</i>	:	decided accordingly
<i>Relief</i>	:	Petition is partly allowed awarding lump-sum compensation of ₹ 1,00,000/- per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 and 2

8. Both these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The respondent has come up with the specific plea that the petitioner and other likewise workmen were engaged through contractor after tenders were invited hence the petitioner is not a workman of the respondent, and therefore, he can not get the relief under the Act. In support of such plea, the respondent has also led evidence by examining Shri B.C. Negi, Executive Engineer, Chenab Valley, HPPWD Udaipur as RW1. He has tendered his affidavit Ext.RW1/A pleaded therein specifically that tenders were invited for contractual labour and award letter was issued in favour of Shri Tenzin and he had deployed workmen as per the terms and conditions of award letter. This witness has tendered on record the award letter in favour of Shri Tenzin as Ext. RW1/B, the mandays chart of the petitioner Ext. RW1/C and list of workmen supplied by the contractor Ext. RW1/D. He has also tendered on record the notice inviting the tenders as Ext.RW1/E. The petitioner has also been cross-examination on the same lines. The only question is to be decided by this court is whether the petitioner is proved to be a contractual employee deployed through contractor Shri Tenzin or the petitioner is proved to be a workman of the respondent. This question finds its answer in the documents filed and proved on the record by the respondent department itself. Notice inviting tenders Ext.RW1/E is very important document and it is clear from the same that this notice was issued on 04.04.2012 and it was circulated widely in order to invite the tenders for deployment of 250 workmen skilled and unskilled for the working season of 2012-2013. Such fact is clearly mentioned in the notice and as many as 28 terms and conditions also have been incorporated in this notice. Condition nos. 21 and 22 are also very important which speak of the facts that if the contractor fails to supply the entire labour within a month after issuance the order in favour then his quotation for the next year shall not be entertained. It is thus very much clear that this tender was invited for the year 2012-2013 only and a fresh tender was to be invited for the working season of 2013-2014. On the completion of this tender process the work was awarded in favour of Shri Tenzin as is clear from award letter Ext.RW1/B dated 03.5.2012. This contractor Shri Tenzin supplied 10 workmen as is clear from document Ext. RW1/D on the record. The petitioner has been shown at serial no.8 as Surrender

Singh s/o Shri Tej Singh. It is therefore, very much clear from these three documents read in the light of each other that tender was invited for the one working season of 2012-2013 and the award letter was also issued in favour of Shri Tenzin for the year 2012-2013. It is also clear from the terms and conditions that new tender was to be floated every year. This work awarded in favour of Shri Tenzin was come to an end in the year 2013. The mandays chart of the petitioner filed by the respondent itself as Ext. RW1/C is very material document. It is clear from this document that the petitioner had worked for 21 days in May 2012 and thereafter he worked for 30 or 31 days according to the number of days of each month till April 30. Since the tender work was allotted in May, 2012 for one year, the tender had come to an end in April 2013. After April 2013 it was for the respondent to call for fresh tenders and deploy the labour for the working season of 2013-2014. No such document has been placed on the record by the respondent to show that any fresh tenders were invited and Shri Tenzin again participated in the same and was declared as a successful bidder and thereafter work was awarded to him and he worked with the same labour. Which was deployed during the year 2012-2013. there are neither pleading nor evidence on the record to prove that the work allotted in favour of Shri Tenzin for the working season of 2012-2013 was extended for the year 2013-2014 as well. The respondent is absolutely silent on this aspect. When the mandays chart Ext.RW1/C is carefully examined it is clear that in May, 2013 the petitioner has worked for 26 days and from June to November he has worked for 30 or 31 days as per the number of days falling in particular month. In December he has not worked for a single day and from February 2014 to May 2014 he has worked for 23, 26, 29 and 06 days respectively. When the tender work allotted in favour of Shri Tenzin has come to an end in April 2013 in which capacity the petitioner was made to work in the month of May, 2013 and thereafter upto May 2014? There is no material on the record placed by the respondent. When no fresh tender was floated and when no work was allotted to any other contractor for the working season of 2012-13, it is thus but natural that the petitioner was retained in the work by the respondent in personal capacity after the first tender was over. It is thus evident that muster rolls were issued to him after April 2013 till May 2014 numbers whereof have been mentioned in the mandays chart. When there is no material on the record to suggest that the labour was obtained from a particular contractor for the working season 2013-2014 the only presumption goes that the petitioner was engaged in the year 2013-2014 by the department on daily wages on muster roll and the plea of the respondent that the work was got executed from the petitioner on contract basis throughout is wrong and is not established. At the most, it is established that till April, 2013 the petitioner worked through contractor and thereafter he worked directly with the respondent on muster roll basis. The services of the petitioner have been terminated in May 2014. In case twelve calendar months are counted in reverse order from May 2014 it goes upto June, 2013. Thus when the working days of the petitioner are calculated for the preceding 12 calendar months *w.e.f.* May 2014 (in reverse order), it is proved that he has worked for more than 240 days in a calendar year before his oral termination. Legally, his services could not have been terminated without serving a notice upon him under Section 25-F by the respondent. Thus the termination of the services of the petitioner is bad on the face of it.

10. The next question to be considered is whether the respondent has retained junior workmen and retrenched the services of the petitioner, and secondly, whether the respondent has engaged fresh hands after services of the petitioner were terminated. Such pleadings have been made by the petitioner in para nos. V, VIII and IX of the claim. The respondent, on the other hand, has denied these allegations as incorrect and has come up with the case throughout that the labour was engaged through contractor and the labour did not belong to the department. The further defence of the respondent is to the effect that neither any junior was retained nor any fresh hand was engaged as has been alleged. When such is the factual position, it is for the petitioner to at-least lead prima-facie evidence on the record to make this court to draw an inference that junior workman to the petitioner was retained at the time when his services were terminated, and secondly, after his termination fresh hands were engaged without giving him an opportunity to join. The petitioner has led no evidence on this aspect and has merely sworn his affidavit with vague

averments. Such affidavit is not sufficient to discharge the onus placed upon the petitioner. He has nowhere mentioned name of any of the labourer who was retained at the time of his termination. The petitioner has not mentioned name of any labourer who was engaged after his termination. The respondent has not produced on record the seniority list on the plea that no such seniority list was maintained as the workmen are not engaged directly by the department but they were engaged through the contractor. The respondent has filed only a list of ten workmen who are claimed to have been supplied by contractor Shri Tenzin and name of the petitioner figures at serial no.9. It is not the case of the petitioner that out of these ten person the only workman shown at serial no.10 Mithu Kumari Sharma has been retained. When it is not his case, then he can not contend that the workmen junior to him were retained. When the petitioner has not named any workman specifically in the pleadings and in the evidence, the onus is not shifted upon the respondent and the respondent is not supposed to lead evidence in negative form. Had the petitioner named any workman specifically in the pleadings and in the witness-box, the onus would have shifted upon the respondent to prove the things otherwise. When such is the position, the petitioner has failed to prove that any person junior to him was retained at the time of termination of his services and fresh hands were also engaged after his services were terminated. Thus violation of Sections 25-G and 25-H of the Act is not established, although there is violation of Section 25-F of the Act as has already been discussed hereinabove.

11. By now the law is well settled when there is only violation of Section 25-F of the Act, the courts are bound to pass the award regarding reinstatement of the workman as in case the workman is reinstated, the employer is still at liberty to issue notice under Section 25-F of the Act to him and after compliance of the said Section terminate his services. It is also well settled law that workman on daily wage basis does not hold anypost as such workman is not engaged against the regular post. It is also settled law that in case violation of Section 25-F of the Act is coupled with the violation of Sections 25-G and 25-H only then the reinstate is the rule, in case, other factors are in favour of the petitioner Otherwise the rule is that grant of compensation instead of reinstatement.

12. In the case in hand, since the violation of the provisions of Sections 25-G and 25-H of the Act is not established, therefore, the petitioner can not claim reinstatement as a matter of right, as in case, he is ordered to be reinstated, the department is still at liberty to terminate his services after complying with the provisions contained in Section 25-F of the Act. In these facts and circumstances the appropriate relief to which the petitioner is entitled to is grant of compensation in his favour.

13. Taking into account the fact that the petitioner has worked for more than 240 days in continuity before his services were terminated by the respondent in violation of the provisions of Section 25-F of the Act coupled with the fact that the petitioner had raised the issue before appropriate authorities on time and has pursued his claim throughout coupled with the fact that he is a young man and had served in the hard area of the State, ends of justice shall meet in case the respondent department is directed to pay compensation of ₹ 1,00,000/- (Rs. One Lakh Only) to the petitioner. Both these issues are decided accordingly.

RELIEF

14. In view of my discussion on the above issues, it is held that though there had been only violation of Section 25-F of the Act in this case yet the relief of reinstatement and other consequential benefits cannot be granted in his favour but he is held entitled for compensation to the tune of ₹1,00,000/- (Rupees one lakh only), which would be paid within four months by the respondent and from the date of receipt of Award failing which the respondent shall be liable to pay the interest @ 6% per annum on the said amount from the date of award till the date of its realization. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 14th day of July, 2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : 845/2016
Date of Institution : 26.11.2016
Date of Decision : 15.07.2022

Shri Basant Singh s/o Shri Keshav Ram, r/o Village Saraskan, P.O. Baroti, Tehsil Sarkaghat, District Mandi, H.P. . . . *Petitioner.*

Versus

The Executive Engineer, H.P.P.W.D. Division, Dharampur, Tehsil Sarkaghat, District Mandi, H.P. . . . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Kumar Karan, Ld. Adv.
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Basant Singh s/o Shri Keshav Ram, r/o Village Saraskan, P.O. Baroti, Tehsil Sarkaghat, District Mandi, H.P. by the Executive Engineer, H.P.P.W.D. Division Dharampur, Tehsil Sarkaghat, District Mandi, H.P. *w.e.f.* 01.01.2000 without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by the workman, is legal and justified? If not, what amount of back wages, seniority, past service benefits and amount of compensation the above aggrieved worker is entitled to from the above employer?”

2. After receipt of the said reference a corrigendum reference has been received from the appropriate Government for adjudication:—

“Whereas, a reference has been made to the Ld. Labour Court-cum-Industrial Tribunal, Dharamshala, District Kangra, H.P. vide notification of even no. dated 10-11-2016 for legal

adjudication. However, inadvertently the correct facts could not be mentioned about the date of termination of the workman in the said notification. Therefore, the date of termination of the workman may be read as “08-07-2005” instead of “01-01-2000” as alleged by workman.

3. The case of the petitioner, in brief, is to the effect that he had worked as daily wager on muster roll with the respondent since the year 1998 till 07.07.2005 and his services were unlawfully terminated *w.e.f.* 08.7.2005 by taking recourse to Section 25-N and Rule 76-A of the Act on payment of compensation amount of Rs.10,290/-. The grievance of the petitioner is to the effect that 35 workmen junior to him were retained and his services were terminated, and thus, the principles of ‘Last come First go’ was violated. The petitioner has named Shri Shashi Kant s/o Sh. Kishori Lal, Smt. Roshani Devi, Shri Ajay Kumar etc. who are junior to him but their services were never terminated. As per the petitioner, Smt. Mamta Devi, who was junior to him and whose services were terminated on 08.07.2005 but she was again re-engaged in the year 2007-2008, but he was never re-engaged, hence the provision of Section 25-H of the Act were also violated. The petitioner has further submitted that large number of other workmen were also retrenched and workmen in sufficient number were re-engaged and some of the workmen were paid adequate compensation but he was ignored throughout. The demand notice was raised by the petitioner on 23.5.2009 and in the year 2013 the Government refused to make the reference to the court. The petitioner had to approach the Hon’ble High Court of Himachal Pradesh by way of writ petition and the petition was dismissed. Thereafter the petitioner approached the Hon’ble Supreme Court where the petition was allowed and the appropriate Government was directed to refer the matter for adjudication. A clerical mistake occurred in the reference and the corrigendum had to be filed. On these averments, the petitioner has prayed that his retrenchment be held illegal and his reinstatement be ordered with full back wages, seniority and continuity in service.

4. The respondent department did not file the reply despite of several opportunities granted for this purpose, and therefore, the right to file the reply was closed on 26.02.2020 by striking the defence. This order was also not assailed and attained finality. The petitioner was directed to lead evidence in support of his claim and he examined himself as PW1. The petitioner tendered his affidavit Ext.PW1/A, the demand notice as Ext.PW1/B and the mandays chart Ext.PW1/C. He also tendered some other documents which are merely marked on the record and are not very relevant for the purpose of the case. He was subjected to cross-examination by learned Deputy District Attorney appearing for the respondent though no reply was filed by the respondent. Thereafter file was initial listed the recording of evidence of the respondent but on realizing that there was no reply filed by the respondent therefore, no evidence could have been led in the absence of the pleadings, the case was heard and it is in this manner that the reference is answered in the light of the claim and the evidence led by the petitioner.

5. Before the merits of the claim are touched it is necessary to mention here that whenever allegations are leveled by the claimant against the employer, it is the duty of the employer to meet those allegations by filing reply. The responsibility to meet those allegations rests with the respondent and such duty has to be discharged by all means particularly when the allegations are very serious in nature inviting serious consequences. In the case in hand, a public department headed by responsible officers is involved and serious allegations have been leveled against the department by the petitioner. In such situation the department was supposed to meet those allegations and had no choice to remain negligent as the public departments are manned by responsible officers, and those officers are always responsible to watch the interest of the department. In the case in hand, the respondent department remained thoroughly negligent in contesting the reference and did not file the reply to the despite of the fact that several opportunities were given with costs and without costs to file the same and ultimately on 26.02.2020 the defence was struck off, when the reply was not filed at all. The department still did not take any

steps to assailed this order dated 26.02.2020 and the order attained finality. It is in this background that the petitioner led evidence in support of the reference.

6. Whenever serious allegations are leveled by the first party against the second party in any litigation the second party is supposed to meet those allegations. In case the second party does not contest the allegations despite of the fact that copy of the claim was supplied well in advance and complete opportunity was given to meet those allegations time and again, the only inference which can legitimately be drawn is that the second party either did not want to contest the allegations or it believed that the allegations were correct and it had no material to meet those allegations. In the case in hand also, the HPPWD department did not file the reply despite of having been given time, time and again and, therefore, the the two inferences can be drawn against the respondent. First, to the effect that the respondent did not want to contest the claim at all, and second, to the effect that the respondent through its officers knew well that the allegations leveled by the petitioner were correct and they had no material to produce to meet the same.

7. When the pleadings and the evidence led in support of the same led by the petitioner are examined in the light of each other, it is clear that the services of the petitioner were terminated after a notice was served and compensation was paid to him. Copy of such notice has been tendered on record as Ext.PW1/B. The petitioner has himself pleaded in the petition regarding the compensation paid to him. Thus the services of the petitioner were terminated by complying with the provisions contained in Section 25-F of the Act. Such termination of the services of the petitioner impliedly mean that the petitioner had worked for more than 240 days during the preceding twelve calendar months and for these reason a notice had to be served upon him before his services were terminated. The petitioner has not challenged the termination of his services under Section 25-F of the Act on the ground that the requisite procedure was not followed before his termination. The petitioner has come up with the specific case to the effect that there were around 35 workmen junior to him at that time and their services were not terminated before him, hence, the the principle of 'last come first go' was totally violated. The petitioner had named some of the workmen in his pleadings and while leading evidence he has stated about such fact in his affidavit Ext.PW1/A. He was though cross-examined but not all this aspect, for the reason that the respondent has not filed the reply to the claim in order to either admit such allegations or deny or explain the same. When no reply was filed, no evidence could be looked into by this court. The legal question raised by the petitioner is to whether Section 25-F could have been invoked by ignoring the principle of 'last come first go' to terminate the services of the petitioner? The answer to this question is simply in negative. It may be stated here that Section 25-F is not an independent provisions but it is controlled by the provisions contained in Section 25-G 'last come first go'. In case, the respondent intends to terminated the services of any of its workman by complying with Section 25-F of the Act, it is for the respondent to ensure that the services of the juniormost workman should be terminated first. In the case in hand, the petitioner has specifically alleged that 35 workmen junior to him were retained at the time of termination of his services. The petitioner has given names of some of such workmen in his claim petition but the respondent did not file the reply to either explain the situation or deny the allegations as incorrect. The allegations which not denied by filing reply is presumed to have been admitted. Otherwise also, the claimant has led evidence and spoken these facts on oath. He specifically deposed by way his affidavit that workmen junior to him were retained and his services were terminated. There is no challenge to this part of evidence. In-fact no challenge could have been made to this part of evidence unless reply was filed. Thus the petitioner has been able to prove the fact that junior workmen to him were retained whereas, his services were terminated under Section 25-F of the Act. Such a procedure is thus against intentions of the Act and the termination of the services of the petitioner becomes illegal as the juniors workmen to him should have been firstly terminated. There is thus a clear-cut violation of Sections 25-G of the Act in this case and the petitioner has been able to prove the same pleadings and leading the evidence in support thereof. The petitioner has further alleged that the

respondent has caused the violation of Section 25-H of the Act. In the claim petition (para no.8) it is pleaded that one Mamta Devi w/o Sh. Hans Raj engaged in the year 2000 was disengaged on 08.7.2005 but in the year 2007-2008 she was re-engaged but he (petitioner) was not re-engaged. This very fact has been spoken by him on oath in para no.1 of the affidavit. Though he has not specifically named those workmen yet he has said that some of the junior workmen terminated after him were re-engaged but he was not reinstated. Thus there is violation of Section 25-H of the Act as well as he should have been given an opportunity to join the work before any junior to him was re-engaged. Thus the petitioner has been able to prove the violation of Sections 25-G and 25-H of the Act by pleadings and leading evidence on the record. The records regarding these workmen were available with the respondent and petitioner could not have proved the seniority etc. as the respondent is custodian of the record and it was thus the duty of the respondent to have produced those documents on the record or explained the situation properly. As aforesaid, the respondent did not take the pains to file the reply and remained thoroughly negligent and compelled the court to strike off the defence. In such a situation, the petitioner can at the most name those workmen who were not terminated and those workmen who were re-engaged without giving the petitioner an opportunity to join. He could not have produced better particulars as such particulars were available with the respondent as the records remain with the respondent. The petitioner has tendered on record copy of mandays chart Ext.RW1/C showing that in between 2002 to 2004 he has worked for more than 240 days. His services were terminated in the year 2005 by giving notice to him and it is well understood that the requirement of notice arose because of the fact that he had completed 240 days in the preceding twelve calendar months before termination of his services.

8. The respondent had raised the matter on time in the year 2009. Though around five years have elapsed in between yet the petitioner raised issue when those workmen who are junior to him and were disengaged at the time when his services were also terminated, were recalled and re-engaged but he was not given an opportunity to work. Thus there is no intentional or deliberate delay on the part of the petitioner to raise the dispute. The petitioner is illiterate/semi illiterate workman and he can not be expected to be well versed with his rights and little delay has, however, occasioned yet the same can not be termed as gross and sufficient enough to deny him the relief. The reference was made by the appropriate Government in the year 2016 and the corrigendum was filed in the year 2019. Once the petitioner has already served the notice he had no control on the proceedings and if the appropriate Government had made reference in the year 2016, he could not be blamed for the same. Otherwise also, it is clear from the pleadings that the petitioner had been vigilant throughout and had even approached the highest court of law, Hon'ble Apex Court for the redressal of his grievances and the reference was ultimately made after the directions were made by Hon'ble Apex Court. Thus there is no such delay on the part of the petitioner which could be treated as gross or having arisen on account of his negligence. Moreover, the question of delay can not be looked into when the respondent has not filed his reply and taken any such plea. When the respondent has not come forward with any objection, then the claim of the petitioner can not be defeated on flimsy grounds. Since the services of the petitioner were disengaged in violation of Sections 25-G and 25-H of the Act, the termination of the petitioner is therefore illegal irrespective of the fact that compliance of section 25 F was made by the respondent. The petitioner is, therefore, held entitled for relief of reinstatement in service. Since the petitioner had not worked with the department, in between, therefore he is not entitled for the back wages. The petitioner has not produced any material before the court to prove that he had remained unemployed throughout and had no source of income. The petitioner has also not produced any material on the record to show that he had to borrow huge amount for his maintenance and in order to look after his family. It shows that he had been working throughout and was earning enough to look after his family. He is thus not entitled for back wages. But the petitioner shall be entitled for reinstatement, seniority and continuity in service from the date of his illegal termination.

9. In view of my above discussions, the claim petition succeeds in part and is partly allowed. The respondent is directed to reinstate the services of the petitioner forthwith. The petitioner is entitled for seniority and continuity in service from the date of his illegal termination except back wages. Parties are left to bear their costs.

10. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 15th day of July, 2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial.
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Ref. No. : 208/2015
Date of Institution : 15.05.2015
Date of Decision : 16.07.2022

Shri Shree Pal s/o Shri Raghu Ram, r/o Village Banal, P.O. Baroti, Tehsil Sarkaghat,
District Mandi, H.P. *Petitioner.*

Versus

1. The Regional Manager, H.R.T.C. Region Sarkaghat, District Mandi, H.P. (Principal Employer)

2. Shri Sant Ram s/o Shri Narangu Ram, r/o Village Richhali, P.O. Dhawali, Tehsil Sarkaghat, District Mandi, H.P. (Contractor) *Respondents.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri N.L. Kaundal, Ld. AR
For the Respondent No.1 : Shri Lalit Guleria, Ld. Adv.
For the Respondent No.2 : Already *ex parte*

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether termination of the services of Shri Shree Pal s/o Shri Raghu Ram, r/o Village Banal, P.O. Bariti, Tehsil Sarkaghat, District Mandi, H.P. *w.e.f.* 27-09-2013 by (i) the Regional Manager, H.R.T.C. Region Sarkaghat, District Mandi, H.P. (Principal Employer) (ii) Shri Sant Ram s/o Shri Narangu Ram, r/o Village Richhali, P.O. Dhawali, Tehsil Sarkaghat, District Mandi, H.P. (Contractor), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages,

seniority, past service benefits and compensation the above worker is entitled to from the above employer?"

2. The petitioner has averred in the claim petition filed him that his services were engaged by respondent no.1 through Government contractor, the respondent no.2 as daily wage Chowkidar in Sub Depot Dharampur *w.e.f.* 01.9.2012 and he worked in such a capacity till 26.9.2013 along-with three other Chowkidar. His services were terminated by the respondent no.2 on 27.9.2013 without complying with the necessary provisions of the Act despite of the fact that he had completed 240 days in the preceding 12 calendar months. Now the respondent no.2 has hire services of Chowkidar from other contractor without giving him an opportunity to work and termination of his services was thus a wrongful act as the petitioner had worked to the utmost satisfaction of the respondent. The further grievance of the petitioner is to the effect that respondent no.2 had employed eight workmen *i.e.* four sweepers and four Chowkidar in Sub Depot Dharampur as per the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and the respondent no.2 was not competent to supply the labour of such an establishment where workmen less than 20 were required. The petitioner was even paid the salary @ Rs.3000/- per month despite of the fact that his salary was fixed as Rs.4500/- per month hence his arrears were also due. The post of the Chowkidar was a permanent post with the respondent no.1 and filling up the same through contractors, as per the petitioner, is an unfair labour practice and in these facts and circumstances the illegal act of termination of the services of the petitioner was liable to be set aside by reinstating the petitioner with back-wages along-with seniority and continuity in service.

3. The respondent no.1 has resisted and contested the petition, whereas, the respondent no.2 did not put his appearance and was ordered to be heard *ex parte*. The respondent no.1 has come up with the plea that the agreement was executed in between the respondents no.1 and 2 for cleanness and maintenance of toilet block of bus stand Dharampur and the petitioner was neither engaged by the respondent no.1 nor he was paid. He was an employee of the contractor and was paid by the contractor, hence, the respondent no.1 had no liability towards him and the petition was not maintainable. It is also submitted that neither the services of the petitioner were engaged nor terminated by respondent no.1 but his services were governed by the agreement. The respondent no.1 has thus prayed for dismissal of the claim.

4. The petitioner has filed rejoinder and reaffirmed the averments made in the petition and denied those made in the reply. He has highlighted the fact that the respondent no.2 was an unregistered contractor and there were violation of the provisions of Contract Labour (Regulation and Abolition) Act, 1970, hence the petitioner be treated as an employee of the respondent no.1. Moreover, the post of Chowkidar being a regular post recruitment through the contractor could not have been made.

5. From the pleadings of the parties, following issues were framed on 20.3.2018 for determination:

1. Whether termination of the services of petitioner by the respondents *w.e.f.* 27.09.2013 is/was improper and unjustified as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable in the present form, as alleged? . . .*OPR.*

Relief.

6. I have heard learned Authorized Representative/ counsel for the petitioner and learned counsel for the respondents at length and considered the material on record.

7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

<i>Issue No. 1</i>	:	Decided accordingly
<i>Issue No. 2</i>	:	Decided accordingly
<i>Issue No. 3</i>	:	No
<i>Relief</i>	:	Petition is dismissed per operative part of the Award.

REASONS FOR FINDINGS

ISSUES No.1 to 3

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. The copy of demand notice has not been tendered on the record by the petitioner, and therefore, it is not clear as to whether he has raised the dispute with regard to the violations of the provisions of Contract Labour (Regulation and Abolition) Act, 1970 by the respondents or not? When the reference received from the appropriate Government is carefully examined it is clear that the contractor has also been arrayed as party. Thus it can be understood that the allegations have been leveled against the principal employer as well as the contractor by the petitioner. Both the respondents have participated in the conciliation proceedings and, the reference was made by the appropriate Government to this court when no settlement could take place. The plain language of this reference shows that this court is supposed to answer as to whether the act of termination of the services of the petitioner by both the respondents without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? In simple words, the question posed for answer is whether there has been violation of Sections 25-F, 25-G and 25-H which mainly deal with termination, re-engagement and the manner of termination. The reference does not speak specifically regarding the violation of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and their impact on the case.

10. When the copy of demand notice has not been placed on the record, the court has the peruse the claim petition in order to understand the exact nature of the controversy. The petitioner himself submitted in the claim petition that he was engaged through the respondent no.2 as daily wage Chowkidar on 01.9.2012 by the respondent no.1 and he continued to work as such till 26.9.2013. Para no.2 of the claim petition further finds mention of the fact that the services of the petitioner were terminated by the contractor at the instance of the respondent no.1, the principal employer. These pleadings in itself make it clear that petitioner has nowhere alleged that he was engaged as a workman by respondent no.1. It is, thus, the case of the petitioner himself that he was engaged through the contractor and not directly by the respondent no. 1. Thus the petitioner had not direct connection with the respondent no.1 at the time of engagement. When the claim petition is further examined carefully, para no.5 of the same suggests that the grievance of the petitioner has been to the effect that the respondents have committed the violations of the Contract Labour (Regulation and Abolition) Act, 1970, as this act was applicable in those concerns in which 20 or more workmen were engaged, whereas, only eight workmen were engaged by the respondent no.1 through respondent no.2. In the rejoinder, the petitioner has come up with the further plea that the respondent no.2 was not a registered contractor as per the requirements of the Contract Labour (Regulation and Abolition) Act, 1970 and could not have supplied the labour, hence, the petitioner was to be treated as a workman of the respondent no.1. It is settled law in various rulings of Hon'ble Supreme Court that a workman can take the plea to the effect that the contract labour system was only a ruse/camouflage to avoid labour law benefits to him and such question could be

raised before the Labour Court/Tribunal. It is also settled that, in case, it was found by the court that the contract labour system was only a camouflage then the workman was to be treated as the employ of the principal employer and not of the contractor. Reference may be made to **Steel Authority of India Ltd. vs. Union of India and Others, reported in (2006) 12 SCC 233**. Thus whenever a workman engage through a contractor feels aggrieved on the termination of his services, he can always take the plea that there was in-fact no contract labour system but the documentation was intentionally done in such a manner so as to avoid accrual of benefits in his favour under the labour laws with the passage of time. The Labour Court/Tribunal is also competent to adjudicate such a plea. The condition precedent for such adjudication is that such plea should be raised by way of demand notice and there must specific reference to this effect so that the court can answer the same. In the case in hand, the reference is simply regarding termination of the services of the petitioner and its legality and justification. The reference has not been made to let this court examine and answer on the issues arising out of Contract Labour (Regulation and Abolition) Act, 1970. still treating it as incidental to the main issue, the matter is examined from this angle as well hereinafter.

11. The respondent has specifically pleaded that an agreement took place with the respondent no.2 on 26.9.2012 and all the terms and conditions were settled. Such agreement has been tendered on record as Ext.RW1/B and it is very much clear from the terms and conditions of the same that the labour was to be supplied by the contractor and the principal employer was in no manner responsible to pay the labourers directly. It is the case of the petitioner himself that he was engaged through the contractor. Thus in view of his own case regarding his engagement through contractor, this agreement can not be ignored by the court. The legal question that has been raised by the petitioner is to the that the contractor had not obtained licence under Contract Labour (Regulation and Abolition) Act, 1970. The contractor was proceeded against *ex parte* and the respondent no.1 has also admitted through Shri Narender Kumar (RW1) that the respondent no.2 had not registered himself under Section 7 of the such Act. The question arising for determination is whether this fact is sufficient to hold that the petitioner was a workman of respondent no.1? The answer in my humble opinion is in negative as not obtaining a licence under the such Act has been held as an offence under Section 23 of the Contract Labour (Regulation and Abolition) Act, 1970 and a specific term of sentence has been prescribed for such violation. There is nothing in the Act which would show that in case, the contractor is found not having obtained the licence, the workman employed through him shall be treated as workman of the principal employer. The Act only makes such an omission punishable under the law. It was held by the **Hon'ble Supreme Court of India in para 105 of Steel Authority of India Ltd. v. National Union Waterfront Workers and Others reported in (2001) 7 SCC 1** as under:—

[105] The principle that a beneficial legislation needs to be construed liberally in favour of the class for whose benefit it is intended, does not extend to reading in the provisions of the Act what the legislature has not provided whether expressly or by necessary implication, or substituting remedy or benefits for that provided by the legislature. We have already noticed above the intendment of the C.L.R.A. Act that it regulates the conditions of service of the contract labour and authorizes in Sec. 10(1) prohibition of contract labour system by the appropriate Government on consideration of factors enumerated in sub-sec. (2) of Sec. 10 of the Act among other relevant factors. But, the presence of some or all those factors, in our view, provide no ground for absorption of contract labour on issuing notification under sub-sec. (1) of Sec. 10. Admittedly when the concept of automatic absorption of contract labour as a consequence of issuing notification under Sec. 10(1) by the appropriate Government, is not alluded to either in Sec. 10 or if any other place in the Act and the consequence of violation of Secs. 7 and 12 of the C.L.R.A. Act is explicitly provided in Secs. 23 and 25 of the C.L.R.A. Act, it is not for the High Courts or this Court to read in some unspecified remedy in Sec. 10 or substitute for penal consequences specified in Secs. 23 and 25 a

different sequel, be it absorption of contract labour in the establishment of principal employer or a lesser or a harsher punishment. Such an interpretation of the provisions of the statute will be far beyond the principle of ironing out the creases and the scope of interpretative legislation and as such clearly impermissible. We have already held above, on consideration of various aspects, that it is difficult to accept that the Parliament intended absorption of contract labour on issue of abolition notification under Sec. 10(1) of C.L.R.A. Act.

12. Thus in the case in hand, though the respondent no.2 has not obtained the licence under Section 7 of the Contract Labour (Regulation and Abolition) Act, 1970, yet this fact in no manner can be held to treat the petitioner as the employee of the respondent no.1. This is one aspect of the matter.

13. The mode and manner of payment of the wages to the workman is another touchstone upon which every case has to be tested before holding that the contract was a camouflage to avoid labour law benefits to the workman or not. In case, the payment of wages to the workman is made by the principal employer directly then the workman has to be treated as the workman of the principal employer, and in case, the payment is made by contractor then the principal employer does not become liable. The agreement Ext.RW1/B shows that all expenses were to be borne by the contractor and not by the principal employer. The petitioner namely Shree Pal has appeared as PW1 in the witness box and has tendered his affidavit Ext.PW1/A which is replica of the claim petition. When he was subjected to cross-examination he pleaded his ignorance to the suggestion that he was not engaged by the HRTC in the work. He has again pleaded his ignorance to the question as to who use to make him the payment. Such plea of ignorance made by the petitioner has proved fatal to him. Had he come up with the specific case that he was paid by respondent no.1 directly then onus would have shifted to the respondent no.1. Since he himself has pleaded his ignorance it cannot be held that he was paid by the respondent no.1. The agreement between respondent no.1 and 2 speaks of the fact that all the expenses were born out by the respondent no.2. Shri Narender Kumar (RW1) has appeared as RW1 and he has also stated in his affidavit that of the remuneration were paid by the contractor and not by HRTC. He has tendered his affidavit Ext.RW1/A. In his cross-examination, he has not said anything which would harm the case of the respondent no.1. He has specifically denied that the petitioner was paid by them. He has specifically said that petitioner was employee of the contractor and they had no connection with him.

14. Thus from the aforesaid material it is established that there was a contract between the respondent no.1 and respondent no.2 and the petitioner was employee of the respondent no.2 and not of the respondent no.1. It is although proved that the respondent no.2 was not a registered contractor yet it is not proved that this agreement was only a camouflage entered to defeat the rights of the petitioner. Had the petitioner pleaded from the very beginning that he was engaged intentionally through the contractor so that he could not claim regularization or other benefits, the position would have been different. The petitioner has nowhere pleaded that this contract was a clever arrangement between respondents no.1 and 2 in order to ensure that the workman engaged by them does not claim any right in future. In case, the agreement was not in accordance with the law it can not said at all that this agreement was intentionally prepared in such a manner to defeat the rights of the petitioner and other workmen. It is also not proved that the petitioner was paid by the respondent no.1. Once the petitioner has failed to prove that despite of this agreement he was paid by the respondent no.1, he can claim himself as employee of the respondent no.1 and it can not be said that there has been violation of the provisions of the Act while his services were terminated by the respondent No. 2. When the petitioner was not engaged by the respondent no.1 directly, he does not become daily wage and completion of 240 days in the preceding calendar year does not create any right in his favour when agreement between respondents no.1 and 2 was very specific to the effect that the workmen were to be supplied by the respondent no.2, and the contract was to

remain in force till 26.9.2013 and not thereafter. On 26.9.2013 the agreement had come to an end and the work of the petitioner also come to an end with the respondent No. 1. When such is the position, the petitioner does not become the employee of the respondent no.1 and he has no right to contend that his services were illegally terminated without serving with a notice upon him. Since there was a contract between respondents no.1 and 2 and the contract has expired, the petitioner did not get any independent right to claim the benefits under the respondent No. 1 and he can not contend that his services could be terminated after issuance of the notice under Section 25-F of the Act.

15. It is argued on behalf of the petitioner that the post of Chowkidar was a permanent post with the respondent no.1 therefore, the same could not have been filled up in such manner, hence, it amounted to unfair labour practice. No evidence has been led on the record to show that it was a permanent post. Even if it was permanent post and it has been filled up in some other manner it does not give any right to the petitioner to be appointed against the same post without undergoing the selection process. The petitioner cannot claim any right against this post merely for the reason that he had worked with the respondent no.1 through contractor for 240 days or more as claimed by him. The fact remains that there was no direct relationship between the petitioner and respondent no.1 and the respondent no.1 was workman of the respondent 2 with whom the respondent no.1 had entered in a contract for specific period. Since the contract had come to an end, the petitioner can not claim any better right against this post. Taking into account the aforesaid discussion the petitioner has failed to prove that his services were terminated without following the process and in violation to the principle contained in Section 25-F of the Act. The petitioner is held not entitled for any service benefits. The petition is, however, held as maintainable for the reason that it has been filed in support of the reference. All these issues are decided accordingly.

RELIEF

16. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

17. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 16th day of July, 2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : 65/2018
Date of Institution : 11.07.2018
Date of Decision : 20.07.2022

Shri Anchal Singh s/o Shri Girdhari Lal, r/o Village Uperli Bharmoli, P.O. Tika Nagrota
Tehsil Nurpur, District Kangra, H.P. . .Petitioner.

Versus

The Principal, MCM DAV Public Senior Secondary School Baghni, Nurpur, Tehsil Nurpur, District Kangra, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Vivek Vashisth, Ld. Adv.
For the Respondent : Shri R.S. Rana, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

"Whether termination of services of Shri Anchal Singh s/o Shri Girdhari Lal, r/o Village Uperli Bharmoli, P.O. Tika Nagrota, Tehsil Nurpur, District Kangra, H.P. *w.e.f.* 05-07-2017 by the Principal, MCM DAV Public Senior Secondary School Baghni, Nurpur, Tehsil Nurpur, District Kangra, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?"

2. The petitioner has averred in the statement of claim that he is an ex-serviceman having retired from the rank of Hawaldar. According to him, he had been serving the respondent no.1 as security guard *w.e.f.* 24.4.2015 in continuity but the appointment letter was issued on 02.4.2017 in his favour. His grievance has been to the effect that despite of having performed his duties as security guard with dedication and devotion, the school authorities got annoyed with him after he raised the issue of illegal disposal of school property by some members of the staff. Thereafter the respondent started issuing him letters on false grounds and his services were terminated *w.e.f.* 05.7.2017 without complying with the mandatory provisions of the Act. On the aforesaid averments, the petitioner has prayed for the relief of re-engagement, back wages etc.

3. The respondents have resisted and contested the claim on the ground of maintainability and have taken other similar preliminary objections. The case of the respondents, in nutshell, has been to the effect that the services of the petitioner were engaged purely on temporary basis and his behaviour with the school staff remained very rude, unwelcome, aggressive and vindictive. On 25.7.2017, when school authorities asked all the 42 staff members to submit their character certificates, the petitioner did not submit the same. The matter was probed independently by the school and it was revealed that a criminal case was instituted against him previously in which he was convicted and sentenced to undergo rigorous imprisonment for one year and payment of fine. It is also the case of the respondents that the petitioner was purely engaged on temporary basis and there was no question of completion of 240 days by him, and therefore, the provisions of the Act are not applicable.

4. The petitioner has filed rejoinder and reaffirmed the averments made in the petition and denied those made in the reply. He has asserted that his character was good and previous conviction was not a ground to remove him from the services as it did amount to dereliction duties or moral turpitude.

5. From the pleadings of the parties, following issues were framed on 04.06.2019 for determination:

1. Whether termination of the services of the petitioner by the respondent *w.e.f.* 5.7.2017 is illegal and unjustified? . . .*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the petitioner has no locus standi and cause of action to file the present petition? . . .*OPR.*
5. Whether petitioner has not come to the Court with clean hands and has suppressed the true and material facts, as alleged? . . .*OPR.*
6. Relief.
6. I have heard learned Authorized Representative/ counsel for the petitioner and learned counsel for the respondents at length and considered the material on record.
7. For the reasons recorded hereinafter, the findings of this Court on the above issues are as under:—

<i>Issue No.1</i>	:	No
<i>Issue No.2</i>	:	No
<i>Issue No.3</i>	:	No
<i>Issue No.4</i>	:	No
<i>Issue No.5</i>	:	No
<i>Relief</i>	:	Petition is dismissed per operative part of the Award.

REASONS FOR FINDINGS

ISSUE No.1

8. The onus to prove this issue is upon the petitioner and he has examined himself as PW1 apart from examining Shri Balwant Singh as PW2. The petitioner has tendered his affidavit Ext.PW1/A, the interview letter, appointment letter and some other letters in his possession in the evidence as Ext. PW1/B to Ext. PW1/F. These documents are very crucial to examine the nature of employment of the petitioner. Ext. PW1/C is the interview call letter dated 24.4.2015 vide which the petitioner was called for an interview to be held on 03.5.2015 at 9:30 AM for the post of security guard. Ext.PW1/B is the appointment letter carrying as many as seven conditions. This appointment letter shows that the petitioner was engaged for a fixed tenure which would end on 31.3.2016. The petitioner has accepted the offered and the terms and conditions and signed the document as a token of acceptance. This document Ext.PW1/B is not the document of the respondent but it has been filed and proved on the record by the petitioner himself. Thus both the documents Ext.PW1/C and Ext.PW1/B coming from the custody of the petitioner prove that interview was held for the post of security guard, the petitioner was called through the call letter and he appeared in the same and was declared as a successful candidate. He was thus given the appointment *vide* letter dated 05.5.2015 Ext.PW1/B and the petitioner accepted the terms and conditions of his appointment. It is clear from the terms and conditions that the appointment was offered on contractual basis for a fixed period. The petitioner, as aforesaid, accepted the terms and conditions by signing the letter and consolidated salary of Rs.7500/- was paid to him. Once these documents have come from the possession of the petitioner himself and once he has tendered the same in evidence and not disputed then, the documents certainly have to be read against him as

well. It is not the case of the petitioner that his signatures on Ext. PW1/B were obtained by misrepresenting the facts or under some inducement. It is also not the case of the petitioner that the terms and conditions were not read over and explain to him. Once he has not disputed the document and his signatures on the same, the only inference that can be drawn is that the petitioner accepted appointment after accepting the terms and conditions attached to it. Thus his appointment was for a fixed tenure which would have come to an end on 31.7.2016. It was thus a contractual appointment on consolidated salary. It being a contract for fixed term, the provisions of Section 25-F of the Act were thus not applicable.

9. The petitioner has field and proved on record another appointment letter issued in his favour in the month of March, 2016. This document is Ext.PW1/D and it is again the appointment letter in which reference of the interview dated 20.3.2016 has been made. The petitioner is shown to have participated in this interview and was declared as a successful candidate. The appointment was offered to him for a fixed term till 31.3.2017 on consolidated salary of Rs.8500/- per month. The petitioner has himself relied upon this document and has not challenged the contents of the same in any manner. Therefore, this document can be read against him. This document, therefore, proves that the petitioner was offered contractual appointment till 31.3.2017 on consolidated by the respondents and he gave his joining after accepting the terms and conditions. The petitioner has relied upon one more document which is equally important for the purposes of this case. Ext.PW1/E is another appointment letter issued in his favour on 02.4.2017 whereby he was again offered for post of security guard on the consolidated salary of Rs.9500/- for a period of 89 days. This letter also contained similar terms and conditions and the petitioner accepted the same on 02.4.2017 and signed the document in lieu of acceptance. Since this document has come from the possession of the petitioner and since he has not spoken even a word against this document as well, therefore, it has to be relied upon against him. The petitioner has not taken the plea of misrepresentation while this document was signed by him in order to accept the terms and conditions of the employment offered. Thus this document prove that the petitioner was given employment only for 89 days on a consolidated salary of Rs.9500/- per month on 02.4.2017. When the aforesaid facts are examined in light of each other, it is established that the petitioner was not engaged as a daily wage worker at any point of time and his appointment had been on contractual basis for fixed period on consolidated salaries and the petitioner has not accepted the terms and conditions of such appointments but has signed the letters in lieu of the same. The petitioner has also joined the duties in compliance to these appointment letters and, therefore, he cannot claim himself as a daily wage worker having been engaged by the respondent in the year 2015 and having worked thereafter in continuity till 13.6.2017. The petitioner, in para no.2 of the claim petition, has pleaded that he was engaged on 24.4.2015 but appointment letter was issued on 02.4.2017. The petitioner has himself falsified his pleadings by placing on record two other appointment letters Ext.PW1/B and Ext.PW1/D which show that appointment letter was not issued in his favour on 2nd April, 2017 for the first time, but two appointment letters were issued to him before that and he had worked for two fixed terms prior to April 2017.

10. It is settled law by now that appointment for a fixed period is covered under section 2(oo) (bb) and such termination is not retrenchment unless it is malafide. It has been held by the Hon'ble Supreme Court of India in **State of Rajasthan and others, Appellant vs. Rameshwar Lal Gahlot, Respondent reported in AIR 1996 Supreme Court 1001** in para 4 as under:—

[4] The controversy now stands concluded by a judgment of this Court reported in *M. Venugopal v. Divisional Manager, LIC.*, (1994) 2 SCC 323: (1994 AIR SCW 778). Therein this Court had held that once an appointment is for a fixed period, Section 25—does not apply as it is covered by clause (bb) of Section 2 (oo) of the Act. It is contended for the respondent that since the order of the learned single Judge was not challenged, the termination became final. Consequently, the appellant would be liable to pay back wages on

reinstatement. In our considered view, the opinion expressed by learned single Judge as well Division Bench are incorrect in law. When the appointment is for a fixed period, unless there is finding that power under clause (bb) of Section 2 (oo) was misused or vitiated by its malafide exercise, it cannot be held that the termination is illegal. In its absence, the employer could terminate the services in terms of the letter of appointment unless it is a colourable exercise of power. It must be established in each case that the power was misused by the management or the appointment for a fixed period was a colourable exercise of power. Unfortunately, neither the learned single Judge nor the Division Bench recorded any finding in this behalf. Therefore, where the termination is in terms of letter of appointment saved by clause (bb), neither reinstatement nor fresh appointment could be made. Since the appellant has not filed any appeal against the order of the learned single Judge and respondent came to be appointed afresh on June 27, 1992, he would continue in service, till the regular incumbent assumes office as originally ordered.

11. In the case in hand, the petitioner has not alleged any malafide on the part of the respondent to terminate his services by offering him employment for fixed tenure. He has himself accepted the terms and conditions of fixed tenure and worked for three tenures. For the first two tenures he did not feel aggrieved at all and he accepted the third tenure of 89 days voluntarily and worked for 89 days. His grievance began only when he was not re-engaged. Once he has accepted the employment for 89 days only he can not contend that it was an act of malafide on the part of the school. There is no specific reference to adjudge the malafides on the part of the respondents. So far as obtaining of character certificate from the petitioner is concerned, it is no ground on the record for termination of the services of the petitioner. The school authorities have although come up with the plea that the behaviour of the petitioner was not good with other staff members but such behaviour was not made basis to terminate his services. His services were terminated on the expiry of the fixed period. Such termination is not retrenchment and provisions of Section 25-F of the Act are thus not applicable. The learned counsel for the petitioner has cited **1991 SC 1286** titled as **Sri Rabinarayan Mohapatra, Appellant v. State of Orissa and Others, Respondents** in which it was held by the Hon'ble Supreme Court that an appointment of teacher for a 89 days with one day break deprived such teacher of his salary for the period of summer vacations and other benefits and hence it was arbitrary. The case law is not applicable to the present reference as the case cited does not deal with the reference petition but it was a writ petition against some order. Here the parties had neither approached the Labour Court nor there was a decision of Labour Court. The facts and circumstances of the case cited are entirely different than the present case and the case law is not applicable at all. The petitioner has examined one Shri Balwant Singh as PW2 in order to show that his character was very good and behaviour was appropriate in the school. It may be stated here that issue of behaviour was not the cause of termination of services at all. Statement of Shri Balwant Singh, as a whole, shows that this witness had no connection with the school. Therefore, he can not say anything about the things that use to take place in the school. On the other hand, the respondent examined Shri Suresh Kumar, Senior Assistant as RW1 and his affidavit Ext. RW1/A. He has tried to make out case of unwelcome behaviour of the petitioner with the all staff members. Shri Yashpal (RW2) has sworn his affidavit as Ext. RW2/A. He is also witness to the same fact. Shri M.R. Rana, the Principal of school has appeared as RW3 and his affidavit Ext. RW3/A. He has also tried to make out of case of complaints, unwelcome behaviour etc. of the petitioner but he has also specifically stated in para no.3 of the affidavit that the petitioner was appointed for 89 days only on the consolidated salary of Rs.9500/- when cross-examination was conducted on this witness, he pleaded his ignorance to the suggestion whether the petitioner has completed 240 days in each calendar year of 2016-2017. It may be stated here that when the petitioner himself has proved the documents which go against him, it is not for the respondent to speak against the petitioner as the petitioner has himself failed to stand upon his own legs. Thus it is held for the aforesaid reasons and findings that the provision of Section 25-F of the Act is not applicable to the

present case as the services of the petitioner were terminated as the same were for fixed term and he was not retrenched so as to invoke the provisions of Section 25-F of the Act in his favour. This issue is held against the petitioner.

ISSUE No. 2

12. In view of the findings on issue no.1, issue no. 2 is held against the petitioner.

ISSUES No.3 and 4

13. The petitioner has locus standi to file the case and he also has cause of action as the reference has been forwarded by the Government after finding a prima-facie material for adjudication. Claim petition is also maintainable. It is a different situation that the petitioner has not proved his case on merit. Issues no.3 and 4 are held against the respondent.

ISSUE No. 5

14. No material has been placed on the record by the respondent to prove that the petitioner has not come to the court with clean hands. Rather the petitioner has come to the court even with those facts which goes against him and he has axed his own case by placing on record all the appointment letters and the terms and conditions accepted by him at the time of taking of the job. This issue is, thus, held against the respondent.

RELIEF

15. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 20th day of July, 2022

(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : 161/2017
Date of Institution : 27.01.2017
Date of Decision : 22.07.2022

Shri Ramesh Chand s/o Shri Roshan Lal, r/o Village Darku, P.O. Longani, Tehsil Sarkaghat, District Mandi, H.P. .Petitioner.

Versus

1. The Engineer-in-Chief HPPWD, Nirman Bhawan, Shimla (2)

2. The Executive Engineer, HPPWD, Division Dharampur, District Mandi, H.P.

. .Respondents.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None for the petitioner

For the Respondent(s) : Sh. Anil Sharma, Ld.Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether alleged termination of services of Sh. Ramesh Chand S/o Sh. Roshan Lal Vill. Darku, PO Longni, Tehsil Sarkaghat, Distt. Mandi, H.P. during 5/1998 by (1) the Engineer-in-Chief HPPWD, Nirman Bhawan, Shimla-2, (2) the Executive Engineer, HPPWD Division Dharampur, Distt. Mandi, H.P. who had worked as beldar on daily wages basis during the 5/1992 to 5/1998 only for 1735 days, and has raised his industrial dispute *vide* demand notice dated 5.2.2015 after more than 16 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period as above and delay of more than 16 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employees/management?”

2. The petitioner has averred in his statement of claim that his services were engaged as daily waged basis as a beldar on muster roll by the respondent *w.e.f.* May, 1992 and had worked till May, 1998 and completed 240 days during his service as well as in the twelve calendar months before his illegal termination and as such he had covered under the definition of Section 25-B of the Act. As per him, the principle of 'last come first go' was also not followed as the workmen junior to him were retained. Similarly many fresh hands were engaged after his illegal termination without giving any opportunity to him for re-employment and as such the respondent had violated the provisions of Section 25-H of the Act. The petitioner has thus prayed for his reinstatement with all the consequential benefits.

3. The respondent has resisted and contested the petition on the plea of maintainability and on the ground that it suffered from the vice of delay and laches. On merits, it is the case of the respondent that the petitioner was engaged as daily wages beldar *w.e.f.* 5/1992 and had worked till May, 1998 and thereafter he had left the job of his own sweet will. It is denied that the petitioner was covered under the definition of continuous service as defined under Section 25-B of the Act. The respondent has thus prayed for dismissal of the claim petition.

4. The petitioner filed rejoinder and reaffirmed the averments so made in the claim petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 17.02.2020 for determination:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondents during May, 1998, as alleged. If so, its effect? . .OPP.

2. Whether the claim petition is not maintainable, as alleged? . .OPR.

3. Whether the claim petition suffers from the vice of delay and laches, as alleged?
..OPR.

Relief.

6. I have heard learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

<i>Issue No.1</i>	:	not proved
<i>Issue No.2</i>	:	Infructuous
<i>Issue No.3</i>	:	Infructuous
<i>Relief</i>	:	Petition is dismissed per operative portion of the Award

REASONS FOR FINDINGS.

ISSUES No.1 to 3

8. All these issues are inter-related and inter-connected, hence jointly taken for adjudication.

9. It may be stated at the very beginning that 10.5.2022 the learned counsel namely Shri Rajat Chaudhary pleaded no instruction on behalf of the petitioner, hence, this court issued a notice to the petitioner returnable for 21.06.2022 which was duly served upon him and despite of this, the petitioner did not appear before this Court and was ordered to be proceeded against exparte.

10. It is thus a situation whether no evidence has been led in support of the averments made in the claim petition and thus the contents of the claim petition are not established. When there is no evidence in support of the averments made in the claim petition, therefore the claim petition cannot succeed and the same has to be adjudged against the petitioner. It may be stated here that the pleadings without evidence is of no value.

11. When there is no evidence in support of the claim petition, the petition is therefore, dismissed and the claim petition is liable to be answered in negative. Parties are left to bear their own costs.

12. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 22nd day of July, 2022

Announced:
22.07.2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial,
Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA**

Ref. No. : 70/2022
Date of Institution : 02.06.2022
Date of Decision : 22.07.2022

The President/General Secretary, Rangar Mazdoor Union (INTUC), Mehatpur, Tehsil & District Una, H.P. . *Petitioner.*

Versus

The Occupier/Factory Manager, M/s Rangar Breweries Limited, 1& 130, Industrial Area, Mehatpur, District Una, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioners : None
For the respondent : Sh. Mohit Kumar Dhiman, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the action of the Occupier/Factory Manager, M/s Rangar Breweries Limited, 1& 130, Industrial Area, Mehatpur, District Una, H.P. to declare lay off *w.e.f.* 13-01-2022 vide letter dated 12-01-2022 (copy enclosed alongwith list of workers) without paying pending legal dues to their workers, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief of service benefits the aggrieved workers, who has raised demand notice through the President/General Secretary, Rangar Mazdoor Union (INTUC), Mehatpur, Tehsil & District Una, H.P. are entitled to, from the above management?”

2. It may be stated here that the notice was issued to the one of the petitioners *i.e.* the President/General Secretary, Rangar Mazdoor Union (INTUC), Mehatpur, Tehsil & District Una, H.P. for 21.7.2022 which was served upon him. Despite of this, none appeared on behalf of the petitioner before this Court. Since there are neither pleadings nor evidence in support of the reference, the reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 22nd day of July, 2022

**Announced:
22.07.2022**

(HANS RAJ),
*Presiding Judge,
Labour Court-cum-Industrial,
Kangra at Dharamshala, H.P.*

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Ref. No. : 518/2016
Date of Institution : 23.08.2016
Date of Decision : 23.07.2022

Shri Mehar Singh s/o Shri Birbal Ram, r/o Village Dhawal, P.O. Khurahal, Tehsil Sunder Nagar, District Mandi, H.P. . *Petitioner.*

Versus

The Divisional Forest Officer, Forest Division Sunder Nagar, District Mandi, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether alleged termination of services of Shri Mehar Singh s/o Shri Birbal Ram, r/o Village Dhawal, P.O. Khurahal, Tehsil Sunder Nagar, District Mandi, H.P. during March, 2003 by the Divisional Forest Officer, Forest Division, Sunder Nagar, District Mandi, H.P., who had worked on daily wages and has raised his industrial dispute after more than 6 years *vide* demand notice dated-nil-received on 20.9.2009, without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of delay of more than 6 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner, in brief, as made out from the statement of claim is that his services were engaged in March, 2001 on daily wages by Forest Division Suket, Sunder Nagar and he worked in continuity till March, 2003 when he was disengaged orally by the employer without serving a notice under the law. Feeling aggrieved, the petitioner approached the Hon'ble Administrative Tribunal, Shimla and filed O.A. No.290 of 2003 in which an interim order was passed on 12.9.2003 directing the respondent to re-engage his services but the respondent did not comply the order and the petitioner in the year 2004, 2005, 2006, 2007, 2008 and 2009 kept on requesting the respondent to re-engage him but nothing was done, hence, he served a demand notice. The petitioner has further submitted that he has completed the work of 240 days in the preceding 12 calendar months and his name was also mentioned at serial no.373 of the seniority list. Workmen junior to him S/Shri Khub Chand, Kalu Ram, Bhawani Dutt, Chaman Lal, Abhilasu, Ramesh Kumar, Shyam Lal, Kolu Ram, Dina Nath, Hem Raj, Roop Singh, Dhani Ram, Bhim Singh, Lal Singh, Dharam Singh, Kashmir Singh, Santosh Kumar, Govind Ram, Hansraj Hoshiar Singh, Munni Lal, Gopal, Yadav, Smt. Kala Devi, Pal Kumar, Lekh Ram, Daulat Ram, Nihal singh, Chuni Lal, Gopala Ram, Salig Ram and Devender Kumar were retained and later on they

were regularized, whereas, he was not re-engage and thus the respondent is said to have violated the provisions of Sections 25-B, 25-F, 25-G and 25-H of the Act. On these averments, the petitioner has prayed for the relief of his re-engagement with continuity, seniority and back wages.

3. The respondent has resisted and contested the claim petition on the averments that it was not maintainable and was bad on account of delay and laches on his part. On merits, the respondent submitted that the petitioner was engaged in Kangoo Forest Range *w.e.f.* June, 2001 and he worked intermittently upto March, 2003 as per availability of works/funds and thereafter left the work at his own and did not report for the available work/ funds. He is also said to have not completed 240 days in the calendar year, and therefore, he was not entitled for any relief. It is admitted that the original application filed before Hon'ble Administrative Tribunal, Shimla was decided on 04.7.2004. It is explained that the petitioner himself did not report for available work *w.e.f.* 2004 to 2009. The respondent averred that only those workmen were regularized who had completed the criteria for regularization as per Government policy and neither the juniors to the petitioner were retained nor fresh hands were engaged as alleged by him. The respondent, thus prayed for the dismissal of the claim on the plea that it was filed after an inordinate delay, and secondly, the petitioner had never completed the work of 240 days in the preceding 12 calendar months and he had himself absented from the work and not presented himself for work later on.

4. The petitioner has filed rejoinder and re-affirmed the averments made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 21.06.2018:—

1. Whether termination of services of the petitioner by respondents during March, 2003 is/was legal and justified as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR.*
4. Whether the claim petition is bad on account of delay and laches on the part of the petitioner as alleged? . . .*OPR.*

Relief.

6. I have heard learned Authorized Representative/counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

<i>Issue No. 1</i>	:	No
<i>Issue No. 2</i>	:	decided accordingly
<i>Issue No. 3</i>	:	No
<i>Issue No. 4</i>	:	No
<i>Relief</i>	:	Petition is partly allowed as per operative portion of the Award.

REASONS FOR FINDINGS.

ISSUES No. 1

8. The respondent has not disputed the entire case of the petitioner but the contest is on limited facts. The petitioner's engagement as daily wage *w.e.f* March, 2001 till March, 2003 is admitted with the explanation that the petitioner had worked intermittently during aforesaid period and left the work at his own in March, 2003. The petitioner, on the other hand, has alleged his oral termination. The plea of abandonment has since been taken by the respondent, therefore, it is for the respondent to establish the same by leading cogent and convincing evidence as the Industrial Disputes Act is a beneficial piece of legislation and has been enacted to protect the interest of the working class/labour class. All the presumption in a beneficial piece of legislation are drawn in favour of the class for whose welfare such law has been enacted. In the case in hand also, the presumption are in favour of the petitioner and it is for the respondent to rebut the same. The respondent has itself demolished the plea of abandonment by filing the order dated 12.9.2013 passed by the Hon'ble Administrative Tribunal as Ext. RW1/D on the record. The order of the Hon'ble Tribunal was sent along-with the copy of notice to the respondent and case was fixed on 14.7.2004 for final disposal when it is said to have finally disposed of. The order dated 12.9.2013 suggests that the petitioner has felt aggrieved by the act of his oral termination by the respondent and, he therefore, approached the Hon'ble Tribunal with original application. Hon'ble Administrative Tribunal was pleased to pass interim order pending admission of the application to the effect that the respondents shall re-engage the applicant, if the funds and work was available in accordance with his seniority. In case, the petitioner had left the work out of his sweet will in March, 2003 why he would have approached the Hon'ble Administrative Tribunal within a period of six months and prayed for the relief of his re-engagement alleging that his services were orally terminated? A person who does not want to work will not spend money for a cause in which he has no interest. In case, the petitioner had abandoned the work at his own, he would not have approached the Hon'ble Administrative Tribunal by way of Original Application within six months. The stand taken by the respondent that the petitioner had been working intermittently in between March, 2001 to March, 2003 is very important to examine the depth of the matter. The respondent intends to convey by such pleadings that the petitioner had absented many times in between March, 2001 to March, 2003 from the work and had reported to his work and he was given work by the department every time. If such was the state of things then why the petitioner had to approach Hon'ble Administrative Tribunal by way of O.A. No.290/2003? He would have reported directly to the respondent after absenting himself for few days and the respondent would have given him the work as usual. Since the petitioner had to approach the Hon'ble Administrative Tribunal by way of original application it is but natural that he was not re-engaged by the respondent. Otherwise, the petitioner being a labourer would not have decided to spend money on litigation as a person of his stature with meager means cannot afford the expensive hobby of litigating against the Government for the sake of amusement. It is thus a proved fact that the services of the petitioner were disengaged by the respondent and when he was not been re-engaged, he had to invoke the jurisdiction of Hon'ble Administrative Tribunal within six months of his termination.

9. The respondent by placing on record the copy of the order passed by the Hon'ble Administrative Tribunal Shimla, whereby there was directions to the respondent to re-engage the petitioner subject to availability of work and funds, has itself falsified the plea of abandonment of work by the petitioner. The conduct of the petitioner in approaching the Hon'ble Administrative Tribunal within a six months and spending money on litigation in itself shows his willingness to work. Such a conduct on his part is sufficient in itself to falsify the plea of abandonment of work. Had the petitioner intended to abandon the work he would not taken the recourse of law by approaching the Hon'ble Administrative Tribunal at earliest and spent of litigation during those days of life when he had no work and income. The plea of abandonment of work by the petitioner, has thus been demolished by the respondent itself.

10. Otherwise also, there is no notice, explanation or any other material placed by the respondent on the record to show that the petitioner was called upon to report back to his work and despite of being informed, he did not report to the work. The law is well settled that there is no presumption of abandonment of work by the workman but such abandonment has to be proved by leading positive evidence by the employer. The abandonment of work is thus not established at all from the material on the record as no evidence has been led by the respondent. Issues no.1 is decided accordingly.

ISSUE NO. 4

11. Now I will take up this issue for disposal. This is a very crucial issue for the purpose of this case. The respondent has raised a serious objection of delay latches on the part of the respondent and has prayed for denial of the relief claimed. The learned Authorized Representative for the petitioner has submitted that since the delay had occasioned on account of conduct of the respondent, therefore, the petitioner can not be made to suffer for the same. On the other hand, the learned Deputy District Attorney for the respondent has submitted that the petitioner has not approached the conciliation authorities and raising the demand for about six years and this fact is sufficient to deny the relief of reinstatement. It is settled law that a workman who sleeps over his rights for years together can not claim the relief of reinstatement. Before the above mentioned legal proposition is followed, the court has to satisfy itself of the fact that the delay was caused by the petitioner himself and such a delay could have been avoided in case, he had acted with due diligence. The facts and circumstances of every case differ from each other. When the entire background of the proved facts described hereinabove is examined, it is clear that the petitioner had approached the Hon'ble Administrative Tribunal within six months of termination and interim order was passed by the Hon'ble Administrative Tribunal directing the respondent to re-engage the petitioner subject to availability of funds/work and subject to his seniority. When such an order was passed, it was the duty of respondent to call for the petitioner and ask him to resume his duties, in case, work and fund was available with the department. The Original Application was disposed of with such directions. The respondent never called for the petitioner to join the work after the aforesaid orders. Since the petitioner was to be called by the respondent on availability of work and funds, therefore, the petitioner could not have himself reported to the work. The petitioner has otherwise also come up with the plea that he had requested the department several time to reinstate him but nothing was done. When the petitioner was not reinstated by the respondent the presumption goes that the petitioner was made to feel that there was no work and funds with the department. When the evidence was led by the respondent before this court it is clear that junior workmen to the petitioner were never retrenched and they worked throughout and were also regularized with the passage of time. It means that funds and work was always available with the respondent. It was the duty of respondent to call for the petitioner in compliance to the directions of the Hon'ble Administrative Tribunal and give him the work. Neither any call letter nor any notice has been placed on the record by the respondent department to prove that after the orders of Hon'ble Administrative Tribunal were received, the petitioner was called for and asked to resume his work yet he did not resume the same for six years. When such is the position, the petitioner cannot be faulted with and he can not be held responsible for the delay caused in raising the demand. The petitioner is an illiterate workman and belongs to class of labourer, whereas, the respondent is a department manned by literate, qualified and responsible officers who are the duty bound to run the department smoothly and comply with the provisions of the Act, relevant rules and directions of the courts with a positive note. When the Hon'ble Administrative Tribunal had specifically directed the respondent to re-engage the petitioner, the act of the respondent in not calling him to resume his work is a lapse on the part of the department and not on the part of the petitioner, because duty is cast upon the respondent to give the petitioner work as and when the work and funds were available. As aforesaid, funds and work was always available, yet the petitioner was not re-engaged and he had to approach the authorities by raising the demand after

loosing the hopes. In these facts and circumstances the delay in raising the demand is not intentional or deliberate but it is on account of the atmosphere created by the department. The petitioner kept on weighting for the notice/call from the department asking him to report for the work as per the directions of the Hon'ble Tribunal, but the respondent never called him. Since the respondent department was aware of the actual position of the work and funds, therefore, the petitioner had no other option but to wait for the call letter whereby he could be asked to report for the work in compliance to the order of Hon'ble Administrative Tribunal. Thus the delay of about six years was caused not for the reason that the petitioner slept over his rights but for the inaction on the part of the respondent department despite of the specific directions passed by the Hon'ble Administrative Tribunal and availability of work. Thus this delay cannot be taken to deny the relief of reinstatement to the petitioner as it will amount to encourage the respondent to flout the orders of the courts in a light manner and deprive those workmen of their legitimate right who have been held by the courts entitled to for such rights. The inaction on the part of the respondent cannot be taken against the petitioner and the delay stands satisfactory explained and it shall not come in the way of the reinstatement of the petitioner when it is proved that workmen junior to the petitioner were also retained. The petitioner has himself appeared as PW1 in the witness-box and tendered his affidavit Ext.PW1/A. He has named several workmen in para no.4 and claimed that they are junior to him and have been retained by the respondent. He was subjected to cross-examination and there is no specific denial to this fact. Rather, it is put to him that he has not completed 240 minimum working days in the calendar year. He denied the suggestion specifically. Shri Subhash Chand Prashar has been examined as RW1 in the witness box and he has proved his affidavit Ext. RW1/A. In his affidavit, he has tried to make out a case that the petitioner has not made himself available for work on availability of work/funds during year 2004. The affidavit is again silent on the aspect whether any workman junior to him was still working and was regularized or not. The affidavit is again silent on the aspect whether fresh hands were engaged after the petitioner or not. Shri Subhash Chand Prashar has tendered on record copy of mandays chart of the petitioner Ext.RW1/B and it is clear from the same that the petitioner has worked for 55 days in the year 2001, 234 days in 2002 and 73 days in 2003 upto March. The court has to find out whether the petitioner has worked for 240 days in preceding twelve calendar months or not. Thus the court has to examine the case of the petitioner from March 2003 till April, 2002 (in reverse order) to find out whether he has worked for minimum 240 days in preceding twelve calendar months. When number of days are counted from March 2003 to April, 2002 (in reverse order) it comes to more than 240 days even till the month of May, 2002, whereas, the twelve months are complete in April, 2002. Thus the provisions of Section 25-F of the Act is applicable in this case and services of the petitioner could not have been disengaged without serving a legal notice upon him. Secondly, the respondents have tendered on record a seniority list Ext.RW1/E of the daily waged workers as it stood on 31.03.2003. The petitioner was engaged in the year June, 2001 and his name figures at serial no.373 and the seniority list runs till 386. It is the specific case of the petitioner that these workmen junior to him have been retained. There is no denial of this fact by the respondents, therefore, it is also proved that the respondents has violated the principle of 'Last come First Go' and violation of Section 25-G is also established. Since the petitioner has been able to explain the delay of around six years in approaching the authorities, therefore, he is entitled for the relief of reinstatement. Issue no.4 is held against the respondents.

ISSUE No. 2

12. In view of findings on the issues hereinabove the petitioner is held entitled for reinstatement with continuity in service and seniority. The petitioner has pleaded in a general and proved that he remained unemployed after his termination and was not gainfully employed. No categorical evidence has been led by him. It was for the petitioner to prove as to how he had his survival for so many years when he had no source of income. When the petitioner has been himself living and maintaining his family and also pursuing his litigation, it is but natural that he had his

source of income and was getting regular income out of the same. It is not his case that he has borrowed loan from some bank or any private individual and he has now to repay the same. It is also not his case that he has no agricultural land. Thus it is presumed that the petitioner was gainfully employed somewhere and receiving regular income and, therefore, he is held not entitled for back wages. This issue is answered accordingly.

ISSUE No. 3

13. The petition is held maintainable for the aforesaid reasons and the petitioner is held entitled for reinstatement as held hereinabove, hence this is also decided accordingly.

RELIEF

14. In view of my discussion on the above issues, the claim petition is succeed in part and partly allowed. The respondent is directed to reinstate the services of the petitioner forthwith. He is also held entitled for seniority and continuity in service from the date of his illegal termination to the date of his reinstatement. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of July, 2022

(HANS RAJ)
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : 519/2016
Date of Institution : 23.08.2016
Date of Decision : 23.07.2022

Shri Prakash Chand s/o Shri Gandhi Ram, r/o Village and Post Office Dhawal, Tehsil Sunder Nagar, District Mandi, H.P. . .Petitioner.

Versus

The Divisional Forest Officer, Forest Division Sunder Nagar, District Mandi, H.P. . .Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri S.S. Sippy, Ld. AR
For the Respondent : Shri Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether alleged termination of services of Shri Prakash Chand s/o Shri Gandhi Ram, r/o Village and Post Office Dhawal, Tehsil Sunder Nagar, District Mandi, H.P. during March, 2003 by the Divisional Forest Officer, Forest Division, Sunder Nagar, District Mandi, H.P., who had worked on daily wages and has raised his industrial dispute after more than 6 years *vide* demand notice dated-nil-received on 20.9.2009, without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of delay of more than 6 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The case of the petitioner, in brief, as made out from the statement of claim is that his services were engaged in March, 2001 on daily wages by Forest Division Suket, Sunder Nagar and he worked in continuity till March, 2003 when he was disengaged orally by the employer without serving a notice under the law. Feeling aggrieved, the petitioner approached the Hon'ble Administrative Tribunal, Shimla and filed O.A. No.290 of 2003 in which an interim order was passed on 12.9.2003 directing the respondent to re-engage his services but the respondent did not comply the order and the petitioner in the year 2004, 2005, 2006, 2007, 2008 and 2009 kept on requesting the respondent to re-engage him but nothing was done, hence, he served a demand notice. The petitioner has further submitted that he has completed the work of 240 days in the preceding 12 calendar months and his name was also mentioned at serial no. 374 of the seniority list. Workmen junior to him S/Shri Khub Chand, Kalu Ram, Bhawani Dutt, Chaman Lal, Abhilasu, Ramesh Kumar, Shyam Lal, Kolu Ram, Dina Nath, Hem Raj, Roop Singh, Dhani Ram, Bhim Singh, Lal Singh, Dharam Singh, Kashmir Singh, Santosh Kumar, Govind Ram, Hansraj Hoshiar Singh, Munni Lal, Gopal, Yadav, Smt. Kala Devi, Pal Kumar, Lekh Ram, Daulat Ram, Nihal singh, Chuni Lal, Gopala Ram, Salig Ram and Devender Kumar were retained and later on they were regularized, whereas, he was not re-engage and thus the respondent is said to have violated the provisions of Sections 25-B, 25-F, 25-G and 25-H of the Act. On these averments, the petitioner has prayed for the relief of his re-engagement with continuity, seniority and back wages.

3. The respondent has resisted and contested the claim petition on the averments that it was not maintainable and was bad on account of delay and laches on his part. On merits, the respondent submitted that the petitioner was engaged in Kangoo Forest Range *w.e.f.* June, 2001 and he worked intermittently upto March, 2003 as per availability of works/funds and thereafter left the work at his own and did not report for the available work/ funds. He is also said to have not completed 240 days in the calendar year, and therefore, he was not entitled for any relief. It is admitted that the original application filed before Hon'ble Administrative Tribunal, Shimla was decided on 04.7.2004. it is explained that the petitioner himself did not report for available work *w.e.f.* 2004 to 2009. The respondent averred that only those workmen were regularized who had completed the criteria for regularization as per Government policy and neither the juniors to the petitioner were retained nor fresh hands were engaged as alleged by him. The respondent, thus prayed for the dismissal of the claim on the plea that it was filed after an inordinate delay, and secondly, the petitioner had never completed the work of 240 days in the preceding 12 calendar months and he had himself absented from the work and not presented himself for work later on.

4. The petitioner has filed rejoinder and re-affirmed the averments made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues have been framed on 21.06.2018:—

1. Whether termination of services of the petitioner by respondents during March, 2003 is/was legal and justified as alleged? . . .*OPP.*

2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the claim petition is not maintainable in the present form as alleged? . . .*OPR*.
4. Whether the claim petition is bad on account of delay and laches on the part of the petitioner as alleged? . . .*OPR*.

Relief.

6. I have heard learned Authorized Representative/counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

<i>Issue No. 1</i>	:	No
<i>Issue No. 2</i>	:	decided accordingly
<i>Issue No. 3</i>	:	No
<i>Issue No. 4</i>	:	No
<i>Relief</i>	:	Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No. 1

8. The respondent has not disputed the entire case of the petitioner but the contest is on limited facts. The petitioners engagement as daily wager w.e.f March, 2001 till March, 2003 is admitted with the explanation that the petitioner had worked intermittently during aforesaid period and left the work at his own in March, 2003. The petitioner, on the other hand, has alleged his oral termination. The plea of abandonment has since been taken by the respondent, therefore, it is for the respondent to establish the same by leading cogent and convincing evidence as the Industrial Disputes Act is a beneficial piece of legislation and has been enacted to protect the interest of the working class/labour class. All the presumption in a beneficial piece of legislation are drawn in favour of the class for whose welfare such law has been enacted. In the case in hand also, the presumption are in favour of the petitioner and it is for the respondent to rebut the same. The respondent has itself demolished the plea of abandonment by filing the order dated 12.9.2013 passed by the Hon'ble Administrative Tribunal as Ext. RW1/D on the record. The order of the Hon'ble Tribunal was sent along-with the copy of notice to the respondent and case was fixed on 14.7.2004 for final disposal when it is said to have finally disposed of. The order dated 12.9.2013 suggests that the petitioner has felt aggrieved by the act of his oral termination by the respondent and, he therefore, approached the Hon'ble Tribunal with original application. Hon'ble Administrative Tribunal was pleased to pass interim order pending admission of the application to the effect that the respondents shall re-engage the applicant, if the funds and work was available in accordance with his seniority. In case, the petitioner had left the work out of his sweet will in March, 2003 why he would have approached the Hon'ble Administrative Tribunal within a period of six months and prayed for the relief of his re-engagement alleging that his services were orally terminated? A person who does not want to work will not spend money for a cause in which he has no interest. In case, the petitioner had abandoned the work at his own, he would not have approached the Hon'ble Administrative Tribunal by way of Original Application within six months. The stand taken by the respondent that the petitioner had been working intermittently in

between March, 2001 to March, 2003 is very important to examine the depth of the matter. The respondent intends to convey by such pleadings that the petitioner had absented many times in between March, 2001 to March, 2003 from the work and had reported to his work and he was given work by the department every time. If such was the state of things then why the petitioner had to approach Hon'ble Administrative Tribunal by way of O.A. No.290/2003? He would have reported directly to the respondent after absenting himself for few days and the respondent would have given him the work as usual. Since the petitioner had to approach the Hon'ble Administrative Tribunal by way of original application it is but natural that he was not re-engaged by the respondent. Otherwise, the petitioner being a labourer would not have decided to spend money on litigation as a person of his stature with meager means cannot afford the expensive hobby of litigating against the Government for the sake of amusement. It is thus a proved fact that the services of the petitioner were disengaged by the respondent and when he was not been re-engaged, he had to invoke the jurisdiction of Hon'ble Administrative Tribunal within six months of his termination.

9. The respondent by placing on record the copy of the order passed by the Hon'ble Administrative Tribunal Shimla, whereby there was directions to the respondent to re-engage the petitioner subject to availability of work and funds, has itself falsified the plea of abandonment of work by the petitioner. The conduct of the petitioner in approaching the Hon'ble Administrative Tribunal within a six months and spending money on litigation in itself shows his willingness to work. Such a conduct on his part is sufficient in itself to falsify the plea of abandonment of work. Had the petitioner intended to abandon the work he would not taken the recourse of law by approaching the Hon'ble Administrative Tribunal at earliest and spent of litigation during those days of life when he had no work and income. The plea of abandonment of work by the petitioner, has thus been demolished by the respondent itself.

10. Otherwise also, there is no notice, explanation or any other material placed by the respondent on the record to show that the petitioner was called upon to report back to his work and despite of being informed, he did not report to the work. The law is well settled that there is no presumption of abandonment of work by the workman but such abandonment has to be proved by leading positive evidence by the employer. The abandonment of work is thus not established at all from the material on the record as no evidence has been led by the respondent. Issues no.1 is decided accordingly.

ISSUE NO. 4

11. Now I will take up this issue for disposal. This is a very crucial issue for the purpose of this case. The respondent has raised a serious objection of delay latches on the part of the respondent and has prayed for denial of the relief claimed. The learned Authorized Representative for the petitioner has submitted that since the delay had occasioned on account of conduct of the respondent, therefore, the petitioner can not be made to suffer for the same. On the other hand, the learned Deputy District Attorney for the respondent has submitted that the petitioner has not approached the conciliation authorities and raising the demand for about six years and this fact is sufficient to deny the relief of reinstatement. It is settled law that a workman who sleeps over his rights for years together can not claim the relief of reinstatement. Before the above mentioned legal preposition is followed, the court has to satisfy itself of the fact that the delay was caused by the petitioner himself and such a delay could have been avoided in case, he had acted with due diligence. The facts and circumstances of every case differ from each other. When the entire background of the proved facts described hereinabove is examined, it is clear that the petitioner had approached the Hon'ble Administrative Tribunal within six months of termination and interim order was passed by the Hon'ble Administrative Tribunal directing the respondent to re-engage the petitioner subject to availability of funds/work and subject to his seniority. When such an order was

passed, it was the duty of respondent to call for the petitioner and ask him to resume his duties, in case, work and fund was available with the department. The Original Application was disposed of with such directions. The respondent never called for the petitioner to join the work after the aforesaid orders. Since the petitioner was to be called by the respondent on availability of work and funds, therefore, the petitioner could not have himself reported to the work. The petitioner has otherwise also come up with the plea that he had requested the department several time to reinstate him but nothing was done. When the petitioner was not reinstated by the respondent the presumption goes that the petitioner was made to feel that there was no work and funds with the department. When the evidence was led by the respondent before this court it is clear that junior workmen to the petitioner were never retrenched and they worked throughout and were also regularized with the passage of time. It means that funds and work was always available with the respondent. It was the duty of respondent to call for the petitioner in compliance to the directions of the Hon'ble Administrative Tribunal and give him the work. Neither any call letter nor any notice has been placed on the record by the respondent department to prove that after the orders of Hon'ble Administrative Tribunal were received, the petitioner was called for and asked to resume his work yet he did not resume the same for six years. When such is the position, the petitioner cannot be faulted with and he can not be held responsible for the delay caused in raising the demand. The petitioner is an illiterate workman and belongs to class of labourer, whereas, the respondent is a department manned by literate, qualified and responsible officers who are the duty bound to run the department smoothly and comply with the provisions of the Act, relevant rules and directions of the courts with a positive note. When the Hon'ble Administrative Tribunal had specifically directed the respondent to re-engage the petitioner, the act of the respondent in not calling him to resume his work is a lapse on the part of the department and not on the part of the petitioner, because duty is cast upon the respondent to give the petitioner work as and when the work and funds were available. As aforesaid, funds and work was always available, yet the petitioner was not re-engaged and he had to approach the authorities by raising the demand after loosing the hopes. In these facts and circumstances the delay in raising the demand is not intentional or deliberate but it is on account of the atmosphere created by the department. The petitioner kept on weighting for the notice/call from the department asking him to report for the work as per the directions of the Hon'ble Tribunal, but the respondent never called him. Since the respondent department was aware of the actual position of the work and funds, therefore, the petitioner had no other option but to wait for the call letter whereby he could be asked to report for the work in compliance to the order of Hon'ble Administrative Tribunal. Thus the delay of about six years was caused not for the reason that the petitioner slept over his rights but for the inaction on the part of the respondent department despite of the specific directions passed by the Hon'ble Administrative Tribunal and availability of work. Thus this delay cannot be taken to deny the relief of reinstatement to the petitioner as it will amount to encourage the respondent to flout the orders of the courts in a light manner and deprive those workmen of their legitimate right who have been held by the courts entitled to for such rights. The inaction on the part of the respondent cannot be taken against the petitioner and the delay stands satisfactory explained and it shall not come in the way of the reinstatement of the petitioner when it is proved that workmen junior to the petitioner were also retained. The petitioner has himself appeared as PW1 in the witness-box and tendered his affidavit Ext.PW1/A. He has named several workmen in para no.4 and claimed that they are junior to him and have been retained by the respondent. He was subjected to cross-examination and there is no specific denial to this fact. Rather, it is put to him that he has not completed 240 minimum working days in the calendar year. He denied the suggestion specifically. Shri Subhash Chand Prashar has been examined as RW1 in the witness box and he has proved his affidavit Ext. RW1/A. In his affidavit, he has tried to make out a case that the petitioner has made himself not available for work on availability of work/funds during year 2004. The affidavit is again silent on the aspect whether any workman junior to him was still working and was regularized or not. The affidavit is again silent on the aspect whether fresh hands were engaged after the petitioner or not. Shri Subhash Chand Prashar has tendered on record copy of mandays chart of the petitioner Ext.RW1/B

and it is clear from the same that the petitioner has worked for 60 days in the year 2001, 233 days in 2002 and 78 days in 2003 upto March. The court has to find out whether the petitioner has worked for 240 days in preceding twelve calendar months or not. Thus the court has to examine the case of the petitioner from March 2003 till April, 2002 (in reverse order) to find out whether he has worked for minimum 240 days in preceding twelve calendar months. When number of days are counted from March 2003 to April, 2002 (in reverse order) it comes to more than 240 days even till the month of May, 2002, whereas, the twelve months are complete in April, 2002. Thus the provisions of Section 25-F of the Act is applicable in this case and services of the petitioner could not have been disengaged without serving a legal notice upon him. Secondly, the respondents have tendered on record a seniority list Ext.RW1/E of the daily waged workers as it stood on 31.03.2003. The petitioner was engaged in the year June, 2001 and his name figures at serial no.374 and the seniority list runs till 386. It is the specific case of the petitioner that these workmen junior to him have been retained. There is no denial of this fact by the respondents, therefore, it is also proved that the respondents has violated the principle of 'Last come First Go' and violation of Section 25-G is also established. Since the petitioner has been able to explain the delay of around six years in approaching the authorities, therefore, he is entitled for the relief of reinstatement. Issue no.4 is held against the respondents.

ISSUE No.2

12. In view of findings on the issues hereinabove the petitioner is held entitled for reinstatement with continuity in service and seniority. The petitioner has pleaded in a general manner and proved that he remained unemployed after his termination and was not gainfully employed. No categorical evidence has been led by him. It was for the petitioner to prove as to how he had his survival for so many years when he had no source of income. When the petitioner has been himself living and maintaining his family and also pursuing his litigation, it is but natural that he had his source of income and was getting regular income out of the same. It is not his case that he has borrowed loan from some bank or any private individual and he has now to repay the same. It is also not his case that he has no agricultural land. Thus it is presumed that the petitioner was gainfully employed somewhere and receiving regular income and, therefore, he is held not entitled for back wages. This issue is answered accordingly.

ISSUE No.3

13. The petition is held maintainable for the aforesaid reasons and the petitioner is held entitled for reinstatement as held hereinabove, hence this is also decided accordingly.

RELIEF

14. In view of my discussion on the above issues, the claim petition is succeed in part and partly allowed. The respondent is directed to reinstate the services of the petitioner forthwith. He is also held entitled for seniority and continuity in service from the date of his illegal termination to the date of his reinstatement. Parties are left to bear their costs.

15. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 23rd day of July, 2022

(HANS RAJ)
Presiding Judge,

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)**

Ref. No. : 193/2016
Date of Institution : 26.03.2016
Date of Decision : 26.07.2022

Shri Manoj Kumar s/o Shri Ishwar Singh, r/o Village Dhakrera, P.O. Jalpehar, Tehsil
Joginder Nagar, District Mandi, H.P. . *Petitioner.*

Versus

The Resident Engineer, H.P.S.E.B. Bassi Power House, Joginder Nagar, District Mandi,
H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv.
For the Respondent : Shri Anand Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether alleged termination of services of Shri Manoj Kumar s/o Shri Ishwar Singh, r/o Village Dhakrera, P.O. Jalpehar, Tehsil Joginder Nagar, District Mandi, H.P. w.e.f. 26.12.1996 by the Resident Engineer, H.P.S.E.B. Bassi Power House, Joginder Nagar, District Mandi, H.P., who had worked as beldar on daily wages and has raised his industrial dispute after more than 14 years vide demand notice dated 01.10.2011, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of delay of more than 14 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The petitioner has come with the case that his services were engaged as beldar on muster roll basis w.e.f. 07.10.1996 and disengaged on 25.12.1996 without complying with the mandatory provisions of the Act. He raised the demand vide demand notice dated 25.03.2006 but the appropriate Government did not refer the dispute for adjudication and rejected the same vide dated 09.6.2008 on the ground of delay of around eight years. The respondent engaged fresh hands without affording the petitioner and opportunity and preference, hence, he issued a fresh demand notice dated 01.10.2011. The appropriate Government again refused to refer the matter to Labour Court. The petitioner approached the Hon'ble High Court of Himachal Pradesh by way of writ petition which was allowed and Government was directed to refer the matter, and in this manner the present Reference was made. The petitioner has alleged violation of Section 25-F of the Act by the respondent alleging that he had completed more than 240 day of work in each calendar year as

in the last twelve calendar months prior to his illegal termination. He has further alleged that the respondent has also violated the principles of 'last come first go' as junior workmen Shri Suresh Kumar s/o Shri Makholi Ram (30.9.1996), Shri Tek Chand s/o Shri Kalu Ram (30.9.1996) and Shri Rajinder Singh s/o Shri Khem Chand (30.10.1996) were retained. According to him, there was violation of Section 25-H of the Act as well as fresh hands namely S/Shri Hans Raj s/o Shri Sukh Ram (08.01.1998), Ramesh Chand s/o Shri Sant Ram (09.01.1998) and Shri Sher Singh s/o Shri Funiya Ram (16.01.1998) were engaged without giving preference to him. On such averments, the petitioner has prayed for the relief of reinstatement in service with continuity, back wages and seniority.

3. The respondent has resisted and contested the matter and taken up several preliminary objections regarding locus standi, cause of action and delay and latches. On merits, the plea the petitioner is said to have worked for total 78 days only in between 07.10.1996 to 25.12.1996 and thereafter abandoned the work at his own. He is said to have kept mum for more than 13 years thereafter. It is stated that no violation of any provision of the Act has been done by the respondent.

4. The petitioner has filed rejoinder and re-affirmed the averments made in the petition and submitted that the delay was not caused by him but it was caused by the appropriate Government. It is reasserted that there is a merit in the claim petition.

5. On the pleadings of the parties, following issues have been framed on 30.05.2019 for determination:—

1. Whether termination of the services of the petitioner by the respondent *w.e.f.* 26-12-1996 is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the petitioner has no locus standi and cause of action to file the present case, as alleged? . . .*OPR.*
5. Whether the claim petition is bad on account of delay and latches, as alleged? . . .*OPR.*

Relief.

6. I have heard learned Authorized Representative/counsel for the petitioner as well as learned Counsel for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

<i>Issue No. 1</i>	:	No
<i>Issue No. 2</i>	:	No
<i>Issue No. 3</i>	:	Yes
<i>Issue No. 4</i>	:	No
<i>Issue No. 5</i>	:	Yes
<i>Relief</i>	:	Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1, 2, 3 and 5

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. Pleadings are foundation of the claim and parties are bound by their pleadings. The claim petition (para no.2) suggests that demand was raised by the petitioner on 25.03.2006 against his illegal termination but the appropriate Government rejected the same and did not refer the matter for adjudication in the year 2008. The petitioner did not assail the rejection order before the Hon'ble High Court by way of writ petition and the rejection order attained finality. Thus the matter stood closed as the Government decided not to refer the matter to the Labour Court for adjudication. So long the decision of the Government to not to refer the matter stands on the way of the petitioner, the matter covered under the first demand notice can not reopened. In this background, the court certainly can not look into the facts of the case prior to the year 09.6.2008.

10. It is clear from para no.4 of the claim that fresh hands were engaged by the respondent and the petitioner raised another demand vide notice dated 01.10.2011. The Government was again not keen in referring the matter on the basis of this second notice for adjudication before the court. The Government, therefore, declined to refer the matter but the petitioner this time assailed the decision of the Government before Hon'ble High Court. While allowing the writ petition, the Hon'ble Court directed the respondent to consider the case of the petitioner and in this manner reference was made. Thus, the reference so received has to be examined in the light of the position that prevailed after 09.6.2008 when the demand of the petitioner (1st notice) declined and the decision of the Government attained finality.

11. The petitioner has although alleged violation of Section 25-F of the Act yet it is clear from the claim (para no.1) that he had worked for less than three months with the respondent. In such a situation it is not understandable on which basis the petitioner pleaded that he had completed the work of more than 240 days before his illegal termination. Three months tenure consist of only 92 days maximum and that too if work is done in the month of July, August and September or June, July and August. In the case in hand, the petitioner worked from 07.10.1996 to 25.12.1996 only for 78 days, and therefore, the provision of Section 25-F for no stretch of imagination is applicable in this case. The petitioner has himself tendered on record his mandays Chart and has not disputed the number of his working days mentioned therein. Thus violation of Section 25-F of the Act is not even remotely made out in this case.

12. Now comes the question of violation of Section 25-G. The petitioner has pleaded (para no.12 of the claim) that the principles of 'last come first go' were violated as junior workmen Shri Suresh Kumar s/o Shri Makholi Ram (30.9.1996), Shri Tek Chand s/o Shri Kalu Ram (30.9.1996) and Shri Rajinder Singh S/o Shri Khem Chand (30.10.1996) were not disengaged prior to him by the respondent. When it is pleaded case of the petitioner that he was engaged on 07.10.1996, Shri Suresh Kumar s/o Shri Makholi Ram and Shri Tek Chand s/o Shri Kalu Ram having been engaged *w.e.f.* 30.9.1996 are senior to him. It is again not clear as to how the petitioner refers them as juniors. So far as Shri Rajinder Singh S/o Shri Khem Chand is concerned, the petitioner has mentioned incorrect fact to show this person as junior to him. As a matter of fact he was engaged on 03.10.1996 as is clear from the seniority list Ext.P1. When he was engaged on 03.10.1996 and the petitioner was engaged on 07.10.1996 Shri Rajinder is certainly senior to him and thus there is no question of violation of principle of 'last come first go' as pleaded (para no.12) of the claim. In these facts and circumstances of the case violation of Section 25-G is not even remotely made out.

13. The petitioner has alleged the violation of Section 25-H of the Act and named S/Shri Hans Raj s/o Shri Sukh Ram (08.01.1998), Ramesh Chand s/o Shri Sant Ram (09.01.1998) and Shri Sher Singh s/o Shri Funiya Ram (16.01.1998) who, as per him, were re-engaged by the department

after his termination. When the seniority list relied upon on the record as Ext. P-1 is examined, it is clear that no workman was engaged or re-engaged in the year 1998. The list begins from year 2004, when one Girdhari Lal was engaged. One Shri Raj Kumar was engaged in the year 2006 and in the year 2007 Shri Murari Lal was engaged. Petitioner does not refer their names in his pleadings nor he has any grievance against their engagement. As already said hereinabove, the pleadings are foundations of the case and a fact not pleaded can not be proved. The court can not make a case in favour of the petitioner in vacuum in the absence of the pleadings. The purpose of pleadings is to give the opposite party a complete opportunity to meet the case. The opposite party can not be taken by surprise at the time of leading evidence without laying the foundation for claim in the pleadings. It is clear although made out from the seniority list that some workmen have been engaged in the year 2004, 2006, 2007, 2008 and 2009 to 2011 but the petitioner has not said anything against them in the pleadings. He has named some imaginary person who are not in the seniority list at all. Otherwise also, once the petitioner had served the demand notice on 25.3.2006 upon the Government and demand was finally turned down on 09.6.2008, the petitioner can not take any benefit on the cause which was never referred to the court by the Government. Once the Government has rejected the matter till the year 2008, it was closed for ever in the absence of any challenge by way of writ petition. Raising fresh demand in the year 2011 will cover the period after the year 2008 only. As the petitioner has not named those person who were engaged after 09.6.2008 till 01.10.2011 in the pleadings, it is clear that he has felt aggrieved. When he has not pleaded names of those workmen he can not take the advantage of Section 25-H of the Act. Had he assailed their engagement, the respondent would have obtained an opportunity to explain as to how and under which circumstances those workmen were engaged and the petitioner was not given an opportunity to report for the work. The petitioner had himself appeared as PW1 in the witness box and has named some other persons in his affidavit Ext.PW1/A. In-fact, his affidavit is replica of the claim petition and no new facts have been pleaded therein. It is clear from the reference itself that the petitioner has approached the Government after 13 years and the delay caused by him has frustrated his entire case and deprived him even of the relief of compensation which could be granted in alternative. His working days are also so minimum that the grant of compensation in his favour shall not be conducive. The respondent, on the other hand, has examined Shri Arun Kumar the Resident Engineer and his affidavit is Ext.RW1/A. According to him, the petitioner has left the job at his own and no violation of the Act done by the respondent. The respondent has though not led any evidence to show that any show cause notice was served upon the petitioner when he left the job yet the petitioner has divested himself of the relief of compensation for the simple reason that he has named some other workers in the pleadings who does not find their mention in the seniority list. Thus violation of Section 25-H of the Act is not proved. As per the pleadings, the violation of Section 25-G of the Act is also not proved as the workers mentioned by him in the claim are senior to him. The delay in approaching the court and less number of working days have deprived the petitioner from getting any compensation.

14. In the aforesaid facts and circumstances the petitioner has failed to make out the case for his reinstatement, in alternative for the relief of compensation and other service benefits. The claim petition is held not maintainable and the claim is proved to have been suffered from the delay and laches on the part of the respondent. Issues no.1 and 2 are held against the petitioner and issues no.3 and 5 in favour of the respondent.

ISSUE No. 4

15. Since the reference has been made at the instance of the petitioner, therefore, he has the locus standi to file the claim, hence, this issue is held against the respondent.

RELIEF

16. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

17. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 26th day of July, 2022.

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-
INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA**

Ref. No. : 47/2022
Date of Institution : 29.04.2022
Date of Decision : 27.07.2022

Ms. Rachna w/o Shri Pranav Sharma, r/o Village Bhiuli, P.O. Tung, Tehsil Sadar, District
Mandi, H.P. *Petitioner.*

Versus

1. The Managing Director/Principal, M/s Cambridge International School Loonapani,
Tehsil Balh, District Mandi, H.P.

2. The Chairman, Bhawani Memorial Educational Society, Lunapani, Tehsil Balh,
District Mandi, H.P. *Respondents.*

Reference under section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None
For the respondent(s) : Sh. R.K. Bhardwaj, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether the termination of services of Ms. Rachna w/o Shri Pranav Sharma, r/o Village Bhiuli, P.O. Tung, Tehsil Sadar, District Mandi, H.P. *w.e.f.* 28-02-2020 by (i) the Managing Director/Principal, Cambridge International School, Loonapani, Tehsil Balh, District Mandi, H.P. (ii) the Chairman, Bhawani Memorial Educational Society, Lunapani, Tehsil Balh, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947 (as alleged by workman), is legal and justified? If not, what amount of back

wages, seniority, past service benefits and compensation the above worker is entitled to from the above employers/management?"

2. It may be stated here that the notice was issued to the petitioner (Ms. Rachna) for 14.7.2022 which was served upon her. Despite of this, none appeared on behalf of the petitioner before this Court. Such an act on the part of the petitioner proves that she is not interested in pursuing the Reference further. Since there are neither pleadings nor evidence in support of the Reference, the Reference is answered in negative. Parties are left to bear their costs.

3. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 27th day of July, 2022

Announced:
27.07.2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial.
Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP)

Ref. No. : 134/2016
Date of Institution : 17.03.2016
Date of Decision : 27.07.2022

Shri Suresh Kumar s/o Shri Sant Ram, r/o Village Konsal, P.O. Bassi, Tehsil Joginder Nagar, District Mandi, H.P. . . *Petitioner.*

Versus

The Resident Engineer, H.P.S.E.B. Bassi Power House, Joginder Nagar, District Mandi, H.P. . . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Shri Rajat Chaudhary, Ld. Adv.
For the Respondent : Shri Anand Sharma, Ld. Adv.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

"Whether alleged termination of services of Shri Suresh Kumar s/o Shri Sant Ram, r/o Village Konsal, P.O. Bassi, Tehsil Joginder Nagar, District Mandi, H.P. *w.e.f.* 16.12.1996 by the Resident Engineer, H.P.S.E.B. Bassi Power House, Joginder Nagar, District Mandi, H.P., who had worked as beldar during the year, 1996 and has raised his industrial dispute after more than 14 years *vide* demand notice dated 01.10.2011, without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period during the year, 1996 and delay of more than 14 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. The petitioner has come with the case that his services were engaged as beldar on muster roll basis w.e.f. 23.03.1996 and disengaged on 16.12.1996 without complying with the mandatory provisions of the Act. He raised the demand vide demand notice dated 25.03.2006 but the appropriate Government did not refer the dispute for adjudication and rejected the same vide dated 09.6.2008 on the ground of delay of around eight years. The respondent engaged fresh hands without affording the petitioner an opportunity and preference, hence, he issued a fresh demand notice dated 01.10.2011. The appropriate Government again refused to refer the matter to Labour Court. The petitioner approached the Hon'ble High Court of Himachal Pradesh by way of writ petition which was allowed and Government was directed to refer the matter, and in this manner the present Reference was made. The petitioner has alleged violation of Section 25-F of the Act by the respondent alleging that he had completed more than 240 day of work in each calendar year as in the last twelve calendar months prior to his illegal termination. He has further alleged that the respondent has also violated the principles of 'last come first go' as junior workmen Shri Suresh Kumar s/o Shri Makholi Ram (30.9.1996), Shri Tek Chand s/o Shri Kalu Ram (30.9.1996) and Shri Rajinder Singh s/o Shri Khem Chand (30.10.1996) were retained. According to him, there was violation of Section 25-H of the Act as well as fresh hands namely S/Shri Hans Raj s/o Shri Sukh Ram (08.01.1998), Ramesh Chand s/o Shri Sant Ram (09.01.1998) and Shri Sher Singh s/o Shri Funiya Ram (16.01.1998) were engaged without giving preference to him. On such averments, the petitioner has prayed for the relief of reinstatement in service with continuity, back wages and seniority.

3. The respondent has resisted and contested the matter and taken up several preliminary objections regarding locus standi, cause of action and delay and latches. On merits, the plea the petitioner is said to have worked for total 78 days only in between 23.9.1996 to 15.12.1996 and thereafter abandoned the work at his own. He is said to have kept mum for more than 14 years thereafter. It is stated that no violation of any provision of the Act has been done by the respondent.

4. The petitioner has filed rejoinder and re-affirmed the averments made in the petition and submitted that the delay was not caused by him but it was caused by the appropriate Government. It is reasserted that there is a merit in the claim petition.

5. On the pleadings of the parties, following issues have been framed on 30.05.2019 for determination:—

1. Whether termination of the services of the petitioner by the respondent w.e.f. 16-12-1996 is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the petitioner has no locus standi and cause of action to file the present case, as alleged? . . .*OPR.*
5. Whether the claim petition is bad on account of delay and latches, as alleged? . . .*OPR.*

Relief.

6. I have heard learned Authorized Representative/counsel for the petitioner as well as learned Counsel for the respondent at length and considered the material on record.

7. For the reasons recorded hereinafter, my findings on the aforesaid issues are as under:—

<i>Issue No. 1</i>	:	No
<i>Issue No. 2</i>	:	No
<i>Issue No. 3</i>	:	Yes
<i>Issue No. 4</i>	:	No
<i>Issue No. 5</i>	:	Yes
<i>Relief</i>	:	Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1, 2, 3 and 5

8. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

9. Pleadings are foundation of the claim and parties are bound by their pleadings. The claim petition (para no.2) suggests that demand was raised by the petitioner on 25.03.2006 against his illegal termination but the appropriate Government rejected the same and did not refer the matter for adjudication in the year 2008. The petitioner did not assail the rejection order before the Hon'ble High Court by way of writ petition and the rejection order attained finality. Thus the matter stood closed as the Government decided not to refer the matter to the Labour Court for adjudication. So long the decision of the Government to not to refer the matter stands on the way of the petitioner, the matter covered under the first demand notice can not reopened at least at the time when the prayed relief is considered by this court.

10. It is clear from para no.4 of the claim that fresh hands were engaged by the respondent and the petitioner raised another demand *vide* notice dated 01.10.2011. The Government was again not keen in referring the matter on the basis of this second notice for adjudication before the court. The Government, therefore, declined to refer the matter but the petitioner this time assailed the decision of the Government before Hon'ble High Court. While allowing the writ petition, the Hon'ble Court directed the respondent to consider the case of the petitioner and in this manner reference was made. Thus, the reference so received has to be examined in the light of the position that prevailed after 09.6.2008 when the demand of the petitioner (1st notice) declined and the decision of the Government attained finality.

11. The petitioner has although alleged violation of Section 25-F of the Act yet it is clear from the mandays chart tendered on the record as Ext. PW1/B that he had worked for less than three months with the respondent. In such a situation it is not understandable on which basis the petitioner pleaded that he had completed the work of more than 240 days before his illegal termination. Three months tenure consist of only 92 days maximum and that too if work is done in the month of July, August and September or June, July and August. In the case in hand, the petitioner worked *w.e.f* 23.09.1996 to 14.12.1996 only for 79 days, and therefore, the provision of Section 25-F for no stretch of imagination is applicable in this case. The petitioner has himself tendered on record his mandays Chart and has not disputed the number of his working days mentioned therein. Thus violation of Section 25-F of the Act is not even remotely made out in this case.

12. Now comes the question of violation of Section 25-G. The petitioner has pleaded (para no.12 of the claim) that the principles of 'last come first go' were violated as junior workmen Shri Suresh Kumar s/o Shri Makholi Ram (30.9.1996), Shri Tek Chand s/o Shri Kalu Ram (30.9.1996) and Shri Rajinder Singh S/o Shri Khem Chand (30.10.1996) were not disengaged prior

to him by the respondent. When it is pleaded case of the petitioner that he was engaged on 23.09.1996, Shri Suresh Kumar s/o Shri Makholi Ram, Shri Tek Chand s/o Shri Kalu Ram having been engaged *w.e.f.* 30.9.1996 and Sh Rajinder Singh s/o sh. Khem Chand was engaged *w.e.f.* 30.10.1996, these workmen are certainly juniors to the petitioner.

13. The next question to be looked into is whether the services of the petitioner were terminated or he abandoned the work himself. The respondent has come up with the plea that the petitioner himself absented from the work and did not report to the same. There is no notice, explanation or any other material placed by the respondent on the record to show that the petitioner was called upon to report back to his work and despite of being informed, he did not report to the work. The law is well settled that there is no presumption of abandonment of work by the workman but such abandonment has to be proved by leading positive evidence by the employer. The abandonment of work is thus not established at all from the material on the record as no evidence has been led by the respondent. Thus when the petitioner is not proved to have abandoned his work, the presumption goes that his services were terminated by retaining the workmen juniors to him. This the violation of the provision contained in section 25 G of the Act is established.

14. The petitioner has alleged the violation of Section 25-H of the Act and named S/Shri Hans Raj s/o Shri Sukh Ram (08.01.1998), Ramesh Chand s/o Shri Sant Ram (09.01.1998) and Shri Sher Singh s/o Shri Funiya Ram (16.01.1998) who, as per him, were re-engaged by the department after his termination. When the seniority list relied upon on the record as Ext. P-1 is examined, it is clear that no workman was engaged or re-engaged in the year 1998. The list begins from year 2004, when one Girdhari Lal was engaged. One Shri Raj Kumar was engaged in the year 2006 and in the year 2007 Shri Murari Lal was engaged. Petitioner does not refer their names in his pleadings nor he has any grievance against their engagement. As already said hereinabove, the pleadings are foundations of the case and a fact not pleaded can not be proved. The court can not make a case in favour of the petitioner in vacuum in the absence of the pleadings. The purpose of pleadings is to give the opposite party a complete opportunity to meet the case. The opposite party can not be taken by surprise at the time of leading evidence without laying the foundation for claim in the pleadings. It is clear although made out from the seniority list that some workmen have been engaged in the year 2004, 2006, 2007, 2008 and 2009 to 2011 but the petitioner has not said anything against them in the pleadings. He has named some imaginary person who are not in the seniority list at all. Otherwise also, once the petitioner had served the demand notice on 25.3.2006 upon the Government and demand was finally turned down on 09.6.2008, the petitioner can not take any benefit on the cause which was never referred to the court by the Government. Once the Government has rejected the matter till the year 2008, it was closed for ever in the absence of any challenge by way of writ petition. Raising fresh demand in the year 2011 will cover the period after the year 2008 only. As the petitioner has not named those person who were engaged after 09.6.2008 till 01.10.2011 in the pleadings, it is clear that he has not felt aggrieved. When he has not pleaded names of those workmen he can not take the advantage of Section 25-H of the Act. Had he assailed their engagement, the respondent would have obtained an opportunity to explain as to how and under which circumstances those workmen were engaged. The petitioner had himself appeared as PW1 in the witness box and has named some other persons in his affidavit Ext.PW1/A. In-fact, his affidavit is replica of the claim petition and no new facts have been pleaded therein. It is clear from the reference itself that the petitioner has approached the Government after 13 years and the delay caused by him has frustrated his entire case and deprived him even of the relief of compensation which could be granted in alternative. His working days are also so minimum that the grant of compensation in his favour shall not be conducive. The respondent has not challenged the first decision of the Government to not to refer the matter to this court. The petitioner has himself delayed the matter and delay has proved fatal for his case. Law well settled to the effect that when a workman sleeps over his right for a long period, he can not be permitted to reap the benefits of a beneficial provisions. When the petitioner has slept over his right for more

than 14 years and has not even assailed the order of the Government rejecting his earlier demand, he can not get the relief of re-engagement at this belated stage. He even is not entitled for the relief of compensation as his working days are on the minimum side even below 90 days, and secondly, he has caused inordinate delay in approaching the authorities and has not assailed the order of the Government rejecting his demand. The petitioner after rejection of the demand kept mum and in the year 2011, he (petitioner) raised another demand in which the reference was filed by appropriate Government on orders of the Hon'ble High Court. The respondent, has examined Shri Arun Kumar the Resident Engineer and his affidavit is Ext.RW1/A. According to him, the petitioner has left the job at his own and no violation of the Act done by the respondent. The plea of the abandonment has already been dealt with hereinabove. Thus although the violation of Section 25-G is though established yet the petitioner is not entitled for the relief of reinstatement or compensation for the reason discussed hereinabove in detail.

15. In the aforesaid facts and circumstances the petitioner has failed to make of the case for his reinstatement, in alternative for the relief of compensation and other service benefits. The claim petition is held not maintainable and the claim is proved to have been suffered from the delay and latches on the part of the respondent. Issues no.1 and 2 are held against the petitioner and issues no.3 and 5 in favour of the respondent.

ISSUE No.4

16. Since the reference has been made at the instance of the petitioner, therefore, he has the locus standi to file the claim, hence, this issue is held against the respondent.

RELIEF

17. In view of my above discussions, the present claim petition merits dismissal and is accordingly dismissed. Parties are left to bear their own costs.

18. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 27th day of July, 2022

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial,
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF HANS RAJ, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (HP) (CAMP AT MANDI)

Ref. No. : 85/2015
Date of Institution : 25.02.2015
Date of Decision : 06.07.2022

Shri Tej Mal s/o Shri Gian Chand, r/o Village Partain, P.O. Gangoti, Tehsil Joginder Nagar, District Mandi, H.P. . .Petitioner.

Versus

The Executive Engineer, B&R Division HPPWD, Joginder Nagar, District Mandi, H.P.

. . Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947.

For the petitioner : Sh. Deepak Azad, Ld. Adv.
 For the respondent : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

The following reference has been received from the appropriate Government for adjudication under section 10 (1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short).

“Whether time to time termination of the services of Shri Tej Mal s/o Shri Gian Chand, r/o Village Partain, P.O. Gangoti, Tehsil Joginder Nagar, District Mandi, H.P. during October, 2003 to 31-08-2007 by the Executive Engineer, B&R Division H.P.P.W.D. Joginder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. The petitioner has filed the claim petition in support of the reference on the averments that he was engaged in the year 2003 as daily waged beldar by the respondent but he was given fictional breaks till 31.8.2007 in such a manner so that he could not complete minimum 240 working days in every calendar year. The petitioner has named as many as ten persons being Dalip Sing etc. In the petition and alleged that they were junior to him yet they were permitted to continue the work and complete 240 days in each calendar year and later on their services were regularized. The petitioner has further submitted that during the period under reference he requested the respondent many time to condone the fictional breaks and not to subject him to such breaks but no care was taken to his requests, therefore, he served the demand notice and when his grievances were not redressed, the reference has was made by the appropriate Government. He has prayed for the relief to the effect that the fictional breaks given to him be declared as illegal and the above said period be considered as continuity in service for the purpose of regularization.

3. The respondent has resisted and contested the petition on the plea of maintainability, non-joinder of necessary parties and delay and laches. As per the respondent, the petitioner was engaged in November, 2006 on his request and he worked with the respondent at Joginder Nagar as per the mandays chart filed on the record. His services are said to have been regularized in the year 2015 in accordance with the policy and it is submitted that he has worked for 27 days only in the year 2006 and 225 days in the year 2007 and no intermittent breaks were ever given to him. He is claimed to be a habitual absentee and he used to leave the work at his sweet will. It is submitted that the reference be decided against him.

4. The petitioner has filed rejoinder and reaffirmed the averments so made in the petition and denied those made in the reply.

5. On the pleadings of the parties, following issues were framed for determination on 21.08.2019:—

1. Whether time to time termination of services of the petitioner by the respondent during October, 2003 to 31-08-2007 is/was illegal and unjustified, as alleged? . . . *OPP*.
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? . . . *OPP*.
3. Whether the claim petition is not maintainable, as alleged? . . . *OPR*.
4. Whether the claim petition is bad for non-joinder of parties, as alleged? . . . *OPR*.
5. Whether the claim petition is bad on account of delay and laches, as alleged? . . . *OPR*.

Relief.

6. I have heard learned counsel for the petitioner as well as learned Deputy District Attorney for the respondent at length and considered the material on record.

7. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

<i>Issue No. 1</i>	:	Partly yes
<i>Issue No. 2</i>	:	Partly yes
<i>Issue No. 3</i>	:	No
<i>Issue No. 4</i>	:	No
<i>Issue No. 5</i>	:	No
<i>Relief.</i>	:	Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

ISSUES No.1 and 5

8. Both these issues taken up together for the sake of convenience to avoid the repetition of evidence.

9. The mandays chart of the petitioner is Ext. RW1/B. This chart begins from the year 2006 and end with the year 2015. In the year 2006 he is said to have worked for 27 days only. In reply to the petition, it is submitted in para 1 (on merits) that the petitioner was engaged as daily wager in 11/2006. Thus, a dispute of fact has arisen regarding the year in which the petitioner was engaged as daily wager. The initial onus upon the petitioner to prove his case as he has set up the case to the effect that his services were engaged initially in the year 2003. Once he is able to discharge the onus prima facie, it shifts upon the respondent to prove its case to the effect that the petitioner was engaged for the first time in the year 11/2006. Since the documentary evidence produced by the respondent in the shape of mandays chart Ext. RW1/B is in the favour of the respondent, therefore, the petitioner was supposed to lead better evidence in support of his claim. The petitioner has tendered his affidavit and thereafter tendered himself for cross-examination in which he denied the suggestion regarding his engagement in the year 2006 as incorrect. He volunteered to say that he was engaged in the year 2003. The question that arises for determination is whether this much evidence is sufficient to discharge the initial onus placed upon the petitioner? The answer in my humble opinion is in negative. The petitioner can not succeed merely by raising the plea which is against the record maintained by the respondent. The petitioner is supposed to lead better evidence before the court to prove that he was in fact engaged in the year 2003. No co-

worker has been examined by the petitioner in the witness box to depose that he (petitioner) had been working with the respondent since the year 2003. No person from the neighbourhood, no person from the panchayat and no relative of the petitioner has appeared in the witness box to depose that he also had the knowledge of the fact that petitioner was engaged by the respondent for the first time in the year 2003 and he had been working with the respondent since then. So much so even, neither the wife nor any other family member of the petitioner has stepped in the witness box to depose about the fact that the petitioner was working with the respondent since 2003. When the petitioner has not led any evidence to corroborate the plea so taken by him, his plea cannot be believed. The respondent, on the other hand, has produced the mandays chart prepared from the official records to show that the petitioner had worked for the first time with the department in the year 2006 and his working days were only 27 in this year. There is no reason to disbelieve this document when the petitioner has not led any evidence on the record to prove that his services were engaged in the year 2003 and thereafter his services were terminated in between to make the same irregular. The respondent has also examined Shri Sanjeev Kumar Sood (RW1) in the witness box and he has also sworn his affidavit Ext. RW1/B stating therein categorically that as per the records of the department the services of the petitioner were engaged for the first time in the month of November, 2006 and he had never been engaged in the year 2003. this witness was subjected to cross-examination but nothing favourable could be extracted from his cross-examination. There is no reason for a public officer to depose wrong facts against the petitioner as a public servant has no grudge against the workman, and moreover, the public officer cannot be expected to fabricates any document wrongly as he always apprehends that such wrongful act on his part may be exposed at any point of time and harm him. Thus for the aforesaid reasons, the petitioner has failed to prove that he was engaged by the respondent firstly in the year 2003 and he worked thereafter with breaks. Rather it is proved from the evidence led by the respondent that the petitioner was engaged for the first time in November, 2006 and he worked for a period of 27 days in November and in the year 2007 he was worked for a period of 225 days. It is clear from the mandays chart that in between the year 2008 and upto 2014 he had worked for more than 240 days in every calendar year.

10. The next question that this court is supposed to deliberate upon is whether fictional breaks were given to the petitioner in the year 2006 and 2007? So far as year 2006 is concerned, since the petitioner is proved to have been engaged for the first time in November, 2006 and he is said to have worked for 27 days during the year 2006, it is but natural that he could not have completed 240 minimum working days in any situation as there were only 61 working days in November and December 2006. Thus there is no question of giving fictional breaks in the year 2006 to the petitioner with a view to prevent him from completing 240 minimum working days in the calendar year. Only crucial question that requires decision is whether in the year 2007 fictional breaks were given to the petitioner so as to prevent him from completing 240 minimum working days in that calendar year? It is clear from the mandays chart Ext.RW1/B that the petitioner has worked for 225 days in the year 2007 and thus his minimum working days fell short by 15 days. The case of the petitioner has been to the effect that he was given fictional breaks, whereas, the respondent department has come up with the plea that the petitioner was himself irregular and he use to leave the work at his sweet will and thus he could not complete the requisite days in the year 2007. Such fact has been pleaded in the last paragraphs of the reply *i.e.* 5 to 8. This factually issue that arises is whether the petitioner had left the work at his sweet will during the year 2007 and has thus prevented himself from completing 240 minimum working days or fictional breaks were given to him so that he could not complete the period of 240 days in that particular year?

11. It may be stated at the very beginning that this ACT is a beneficial piece of legislation and the law has come into being in order to protect and safeguard the interest of workmen who are illiterate or semi illiterate and are often subjected to exploitation by the employers. Being a beneficial piece of legislation, it always tilts in favour of the labour class. The court has to drawn

the presumptions in favour of the workmen and it is for the employer to prove the things otherwise. In the case in hand also, it was for the department to prove that in the year 2007 the petitioner has left the work out of his sweet will on several occasions and he himself was solely responsible for not completing 240 minimum working days in that particular year. It is settled law by now that whenever workman absents from his work, it is duty of the employer to issue notice to him or seek his explanation for such absence. In case, the workman is able to justify his absence for the reason beyond his control the position is different, and in case, he is not able to justify his absence, a record is thus maintained in regular course by the employer so that the same could be used against the workman whenever he approaches the court and takes the plea of fictional breaks. The onus is always upon the employer to prove that no fictional breaks were given and the respondent was himself absented and the absence was wilful. The wilful absence can be proved only when a notice was issued to the workman during his absence asking him to join the duties and explain the reasons for his absence or justify his absence. Such wilful absence can be proved by asking the workman to explain on his joining as to why he had absented in between. Such record is material piece of evidence which the employer can always produce in the court in support of the plea of his wilful absence. Once a workman has been engaged by employer, he can not left his own mercy and his absence cannot be ignored. It is duty of the employer to ask the workman for each and every absence to explain the reasons for such absence. In the case in hand had the petitioner wilfully absented from his work, the respondent would have served a notice or explanation upon him and asked him to explain why he was committing intentional absence from his work. All those documents could have formed the part of evidence before this court so that the court could form an opinion to the effect that the petitioner had wilfully absented from the work in the year 2007 and fictional breaks were never given. Since no such document has been placed on the record by the respondent the presumption goes in favour of the petitioner as the respondent has not come up with the plea that no work was available in the year 2007. When the respondent has come up with the plea that absence of the petitioner was intentional, onus was upon the employer as the court presumes the facts in favour of the workman as the law has been enacted for his welfare. As aforesaid, no material has been placed on the record by the respondent to show that the petitioner had wilfully absented during the year 2007 and on account of wilful absence he could not complete 240 days in the calendar year. Therefore, the presumption goes to the effect that the petitioner was given fictional breaks in the year 2007 and the purpose of such breaks was to prevent him from becoming eligible for the benefits that would accrue in his favour with the passage of time. Law is also well settled to the effect that a workman who hardly is able to make his both ends to meet cannot be expected to have the luxury of remaining absent from the duties. The respondent although examined Er. Shri Sanjeev Kumar Sood (RW1) but he has not produced any documents in support of the plea of wilful absence of the petitioner. No workman or officer, who was incharge of the work of the department in the year 2004 has appeared in the witness box to depose that he has reprimanded the petitioner to not to remain absent. Thus there is no evidence led by the respondent to prove the fact that the petitioner has wilfully absented in the year 2007 and for this reason he could work only for 225 days and suffered the loss of 15 days to make the number of days to minimum 240. Thus the plea therefore, goes against the respondent.

12. The respondent has taken up with the plea that the claim petition has been frustrated by delay and laches on the part of the petitioner raising his demands. It is true that the petitioner has raised the demand regarding his fictional breaks in the year 2014 after seven year yet it is not fatal and sufficient to frustrate the case of the petitioner as the petitioner is simpleton illiterate/semi illiterate workman and he can not be expected to be well versed with the legal complication and aware of his legal rights. The services of the petitioner were not permanently terminated and he remained working with the respondent with fictional breaks, he therefore, could not foresee the consequences. The petitioner raised the demand when he was not regularized on the ground that in the year 2007 he had not worked for 240 minimum working days. Thus, raising of the demand in the year 2014 is not an act of intentional delay but delay is bonafide and can be condone in the

given facts and circumstances. Thus issue no.1 is held partly in favour of the petitioner by holding that he was given fictional breaks in the year 2007 so as to prevent him from completing 240 working days in the year 2007. It is also held that petitioner has failed to prove that he was engaged in the year 2003 for the first time. Rather it is proved that he was engaged on 11/2006 for the first time. It is also held that the delay in raising the demand has not frustrated the relief, hence issue no.1 is partly decided in favour of the petitioner and issue no.5 is against the respondent.

ISSUE No.2

13. In view of the above discussions, it is held that petitioner was given fictional breaks in the year 2007 so as to prevent him from completing 240 working days and therefore the petitioner is held entitled to the limited relief to the effect that he has completed 240 working days in the year 2007 *i.e.* minimum 240 days in the year 2007.

ISSUES No.3 &4

14. The claim petition has been in pursuance to the reference received from the appropriate Government hence it is maintainable and claim petition is also not bad for non-joinder of necessary parties as bifurcation of the Division after the cause of action has arisen in favour of the petitioner will not make anyone as necessary party. HPPWD department is one for the entire State and how the Divisions were bifurcated in between is not material. Both these issues held against the respondent.

RELIEF

15. In view of my discussion on the above issues, the claim petition is succeed in part and allowed partly. it is held that the time to time termination of services of petitioner/breaks given by the respondent in the year 2007 is illegal, unjustified and shall have no effect on the seniority and continuity of service of the petitioner and his seniority shall be reckoned from the date of initial engagement. It is further held that petitioner has not proved on the record that he was engaged for the first time in 2003 and as such he is not entitled for the benefit from the year 2003 till the year 2006 as he was initially engaged in the month of November, 2006. Parties are left to bear their costs.

16. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 6th day of July, 2022.

(HANS RAJ),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.,
(Camp at Mandi).

HOME (VIGILANCE) DEPARTMENT**NOTIFICATION***Shimla-171002, the 14th October, 2022*

No. Home(Vig.)A(1)-1/2022-Loka.—In exercise of the powers conferred by the Himachal Pradesh Lokayukta Act, 2014, the Governor, Himachal Pradesh is pleased to approve the appointment of Mr. Justice C.B. Barowalia, Hon'ble Judge, High Court of Himachal Pradesh as Lokayukta in Himachal Pradesh.

He will take oath of office only after his resignation is accepted and the Warrant of appointment is issued by the Governor of Himachal Pradesh under his hand and seal.

By order,

Sd/-

Principal Secretary (Home/Vigilance).

In the Court of Sh.Vijay Kumar, HPAS, Sub-Divisional Magistrate-cum-Special Marriage Officer Nadaun, District Hamirpur (H.P.)

1. Dinesh Kumar s/o Sh. Rakesh Kumar, r/o Village Gundwin, P.O. Dudana, Tehsil Galore, District Hamirpur (H.P.).

2. Smt. Lavepreet Kaur d/o Sh. K. Jatinder Jit Singh, r/o Village House No. B-27/4, Ucha Dora Kapurthala, Punjab-144601. . . *Applicants.*

Versus

General Public

Subject.— Proclamation for the registration of marriage under sections 15 & 16 of Special Marriage Act, 1954.

Dinesh Kumar s/o Sh. Rakesh Kumar, r/o Village Gundwin, P.O. Dudana, Tehsil Galore, District Hamirpur (H.P.) & Smt. Lavepreet Kaur d/o Sh. K. Jatinder Jit Singh, r/o Village House No. B-27/4, Ucha Dora Kapurthala, Punjab-144601 have filed an application alongwith affidavits in the court of undersigned under sections 15 & 16 of Special Marriage Act, 1954 that they have solemnized their marriage on 18-05-2022 at Gopal Mandir Bilaspur (H.P.) and they are living as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.

Therefore, the General Public is hereby informed through this notice that if any person who has the objections regarding this can file the objections personally or in writing before this court on or before 17-10-2022 at 5.00 P.M. after that it will not be entertained and the marriage will be registered accordingly.

Issued on this day 31-08-2022 under my hand and seal of the court.

Seal.

VIJAY KUMAR, HPAS,
*Sub-Divisional Magistrate,
Nadaun, District Hamirpur (H.P.).*

In the Court of Sh. Vijay Kumar, HPAS, Sub-Divisional Magistrate-cum-Special Marriage Officer Nadaun, District Hamirpur (H.P.)

1. Rohit Kumar s/o Sh. Krishan Kumar, r/o Village Rit, P.O. Jalari, Tehsil Nadaun, District Hamirpur (H.P.)

2. Tamanna d/o Sh. Baldev Kumar, r/o Village Tabyani, P.O. Rail, Tehsil Nadaun, District Hamirpur (H. P.). . . Applicants.

Versus

General Public

Subject.— Proclamation for the registration of marriage under sections 15 & 16 of Special Marriage Act, 1954.

Rohit Kumar s/o Sh. Krishan Kumar, r/o Village Rit, P.O. Jalari, Tehsil Nadaun, District Hamirpur (H.P.) and Tamanna d/o Sh. Baldev Kumar, r/o Village Tabyani, P.O. Rail, Tehsil Nadaun, District Hamirpur (H. P.) have filed an application alongwith affidavits in the court of undersigned under sections 15 & 16 of Special Marriage Act, 1954 that they have solemnized their marriage on 18-07-2022 at Shiv Mandir Talab Bala Nalagarh, Tehsil Nalagarh, District Solan (H.P.) and they are living as husband and wife since then and their marriage may be registered under Special Marriage Act, 1954

Therefore, the General Public is hereby informed through this notice that if any person who has the objections regarding this can file the objections personally or in writing before this court on or before 21-10-2022 at 5.00 P.M. after that it will not be entertained and the marriage will be registered accordingly.

Issued on this day 12-09-2022 under my hand and seal of the court.

Seal.

VIJAY KUMAR, HPAS,
Sub-Divisional Magistrate,
Nadaun, District Hamirpur (H.P.).

In the Court of Dr. Harish Gajju, H.A.S., Marriage Officer-cum-Sub-Divisional Magistrate, Sujanpur, Distt. Hamirpur (H. P.)

In the matter of :

1. Kulbir Singh aged 33 years s/o Sh. Shakti Chand, r/o Village & P.O. Thana, Tehsil Sujanpur, District Hamirpur (H.P.).

2. Babli aged 32 years d/o Bhola Ram, r/o House No. 64, Shivaji Nagar Basti Danishmandan Jalandhar-1, Jalandhar Punjab-144002 . . Applicants.

Versus

The General Public

. . Respondent.

Application for the registration of marriage under section 16 of Special Marriage Act, 1954 (Central Act) as amended by Marriage Laws (Amendment Act 01, 49 of 2001).

Kulbir Singh aged 33 years s/o Sh. Shakti Chand, r/o Village & P.O. Thana, Tehsil Sujanpur, District Hamirpur (H.P.) and Babli aged 32 years d/o Bhola Ram, r/o House No. 64, Shivaji Nagar Basti Danishmandan Jalandhar-1, Jalandhar Punjab-144002 have filed an application alongwith affidavits in this court under section 16 of Special Marriage Act, 1954 (Central Act) as amended by the Marriage Laws (Amendment Act 01, 49 of 2001) that they have solemnized their marriage ceremony on 13-12-2021 at Gurudwara Shri Guru Singh Sabha (Regd.) Danishmandan Jalandhar-1, Jalandhar Punjab-144002 as per Hindu Rites and Customs and they are living together as husband and wife since then. Hence their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before 21-10-2022. After that no objections will be entertained and marriage will be registered accordingly.

Issued today on 21-09-2022 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,
Sujanpur, Distt. Hamirpur (H.P.).*

**In the Court of Sh. Manish Kumar Soni, HPAS, Marriage Officer-cum-Sub-Divisional
Magistrate, Hamirpur, District Hamirpur (H.P.)**

In the matter of :

1. Sh. Munish Kumar s/o Sh. Chamel Singh, r/o Village Balh, P.O. Mohin, Tehsil and District Hamirpur (H.P.).

2. Ms. Priyanka Thakur d/o Sh. Anil Kumar, r/o Village Swahal, P.O. Ree, Tehsil Sujanpur, District Hamirpur (H.P.) .. Applicants.

Versus

General Public

Subject.— Notice of Intended Marriage

Sh. Munish Kumar and Ms. Priyanka Thakur have filed an application u/s 5 of Special Marriage Act, 1954 alongwith affidavits and supporting documents in the court of undersigned, in which they have stated that they intend to solemnize their marriage within next three calendar months.

Therefore, the general public is hereby informed through this notice that if any person having any objection regarding this marriage, may file his/her objections personally or in writing before this court on or before 21-10-2022. In case no objection is received by 21-10-2022, it will be presumed that there is no objection to the registration of the above said marriage and the same will be registered accordingly.

Issued under my hand and seal of the court on 20-09-2022.

Seal.

Sd/-
Marriage Officer-cum-SDM,
Sub-Division, Hamirpur (H.P.).

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Sadar,
District Mandi (H. P.)**

In the matter of :

1. Sh. Tenzin Thoesam s/o Sh. Lhakpa Dhondup, r/o H. No. P-2/575 Jaral Colony, P.O. Pandoh, Tehsil Sadar, District Mandi (H.P.).

2. Smt. Tenzin Dolma d/o Sh. Passang Chokpa, r/o Vill. H. No. 16 'A', P.O. Tibetan Settlement Kollegal, Distt. Chamrajnagar, Karnataka Pin-571457 . . Applicants.

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Tenzin Thoesam s/o Sh. Lhakpa Dhondup, r/o H. No. P-2/575 Jaral Colony, P.O. Pandoh, Tehsil Sadar, District Mandi (H.P.) and Smt. Tenzin Dolma d/o Sh. Passang Chokpa, r/o Vill. H. No. 16 'A', P.O. Tibetan Settlement Kollegal, Distt. Chamrajnagar, Karnataka Pin-571457 (at present wife of Sh. Tenzin Thoesam s/o Sh. Lhakpa Dhondup, r/o H. No. P-2/575 Jaral Colony, P.O. Pandoh, Tehsil Sadar, District Mandi (H.P.) have filed an application alongwith affidavits in the court of undersigned under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 21-04-2006 according to Hindu rites and customs at their respective houses Mandi (H.P.) and they are living together as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 18-10-2022 after that no objection will be entertained and marriage will be registered.

Issued today on 19th day of September, 2022 under my hand and seal of the court.

Seal.

(RITIKA, I.A.S.),
Marriage Officer-cum-Sub-Divisional Magistrate,
Sadar, District Mandi (H.P.).

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Sadar,
District Mandi (H. P.)**

In the matter of :

1. Sh. Naresh Kumar Dhiman s/o Sh. Sant Ram, r/o H. No. 156/12, Ram Nagar Mandi Town, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.).
2. Smt. Nirmala Devi d/o Sh. Kishan Chand, r/o House No. 61/1/2 Purani Mandi, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.) . . Applicants.

Versus

General Public

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1954.

Sh. Naresh Kumar Dhiman s/o Sh. Sant Ram, r/o H. No. 156/12, Ram Nagar Mandi Town, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.) and Smt. Nirmala Devi d/o Sh. Kishan Chand, r/o House No. 61/1/2 Purani Mandi, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.) (at present wife of Sh. Naresh Kumar Dhiman s/o Sh. Sant Ram, r/o H. No. 156/12 Ram Nagar Mandi Town, P.O. Mandi, Tehsil Sadar, District Mandi (H.P.) have filed an application alongwith affidavits in the court of undersigned under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 20-02-1990 according to Hindu rites and customs at their respective houses Mandi, District Mandi (H.P.) and they are living together as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 25-10-2022 after that no objection will be entertained and marriage will be registered.

Issued today on 26th day of September, 2022 under my hand and seal of the court.

Seal.

(RITIKA, I.A.S.),
Marriage Officer-cum-Sub-Divisional Magistrate,
Sadar, District Mandi (H.P.).

समक्ष मेघना गोस्वामी, नायब तहसीलदार एवम् सहायक समाहर्ता प्रथम श्रेणी, लडभडोल,
जिला मण्डी (हि० प्र०)

मिसल नम्बर : 98/2022

तारीख मरजुआ : 23-09-2022

तारीख पेशी : 20-10-2022

विजय कुमार पुत्र भाग सिंह पुत्र भूरु, निवासी गांव व डाकघर तुलाह, तहसील लडभडोल, जिला मण्डी (हि० प्र०) प्रार्थी।

बनाम

आम जनता

... फरीकदोयम।

दरखास्त बाबत नाम दुरुस्ती

उपरोक्त उनवान वाला मुकद्दमा में प्रार्थी श्री विजय कुमार पुत्र भाग सिंह पुत्र भूरू, निवासी गांव व डाकघर तुलाह, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) ने इस अदालत में दिनांक 23-09-2022 को प्रार्थना-पत्र प्रस्तुत करते हुए अपने प्रार्थना-पत्र में निवेदन किया है कि प्रार्थी का वास्तविक नाम विजय कुमार है परन्तु प्रार्थी का नाम राजस्व अभिलेख मुहाल तुलाह में विजय सिंह ही दर्ज हो चुका है जोकि गलत दर्ज हुआ है। प्रार्थी ने अपने प्रार्थना-पत्र के समर्थन में अबाहन पत्र तलबाना, नकल शजरा नस्ब, स्व घोषणा पत्र, शिक्षा प्रमाण-पत्र, आधार कार्ड व परिवार नकल भाग-1 साथ संलग्न कर रखे हैं। अब प्रार्थी ने अपने नाम की दुरुस्ती के आदेश चाहे हैं।

अतः इस इश्तहार के माध्यम से सर्वसाधारण आम जनता को सूचित किया जाता है कि किसी व्यक्ति को राजस्व अभिलेख मुहाल तुलाह में प्रार्थी का नाम विजय सिंह के स्थान पर विजय कुमार पुत्र श्री भाग सिंह पुत्र भूरू, निवासी गांव व डाकघर तुलाह, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) दुरुस्ती करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी दिनांक 20-10-2022 को 10.00 बजे प्रातः इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकता है। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिए जाएंगे।

यह इश्तहार आज दिनांक 23-09-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता प्रथम श्रेणी,
लडभडोल, जिला मण्डी (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0)

मिसल नं0 : 21

दिनांक मरजुआ : 16-09-2022

पेशी दिनांक : 28-10-2022

मुकद्दमा इन्द्राज सेहत नामा

श्री बलवंत सिंह पुत्र स्व0 श्री बहादुर सिंह, निवासी गांव सरहूण भरगाई, डा0 कोलंग, उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0) ... प्रार्थी।

बनाम

आम जनता

... फरीकदोयम।

प्रार्थना-पत्र U/S 35 ता 37 हि0 प्र0 भू-राजस्व अधिनियम, 1954 के अन्तर्गत बाबत नाम दुरुस्ती बारे।

श्री बलवंत सिंह पुत्र स्व0 श्री बहादुर सिंह, निवासी गांव सरहूण भरगाई, डा0 कोलंग, उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0) ने शपथ-पत्र सहित आवेदन किया है कि प्रार्थी के पिता का वास्तविक नाम बहादुर सिंह पुत्र भेखा है परन्तु प्रार्थी का नाम राजस्व अभिलेख मुहाल सरहूण भरगाई/188 में भादर सिंह पुत्र भेखा दर्ज हो चुका है जोकि गलत दर्ज कागजात माल है। अब प्रार्थी ने राजस्व अभिलेख मुहाल सरहूण भरगाई/188 में अपने पिता का नाम भादर सिंह के स्थान पर बहादुर सिंह की दुरुस्ती करने के आदेश चाहे हैं।

अतः इशतहार के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को राजस्व अभिलेख महाल सरहूण भरगाई/188 में प्रार्थी के पिता का नाम भादर सिंह पुत्र भेखा के स्थान पर बहादुर सिंह पुत्र भेखा की दुरुस्ती करने बारे कोई उजर/एतराज हो तो वह असालतन/वकालतन तारीख पेशी दिनांक 28-10-2022 को प्रातः 10.00 बजे तक इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकते हैं। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जा करके नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिये जाएंगे।

यह इशतहार आज दिनांक 21-09-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ है।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी, उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0)

मिसल नं0 : 20

दिनांक मरजुआ : 15-09-2022

पेशी दिनांक : 28-10-2022

मुकद्दमा इन्द्राज : सेहत नामा

श्री नरेश पुत्र स्व0 श्री नन्दू, निवासी गांव मतकेहड़, डा0 द्राहल, उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

फरीकदोयम।

प्रार्थना-पत्र U/S 35 ता 37 हि0 प्र0 भू-राजस्व अधिनियम, 1954 के अन्तर्गत बाबत नाम दुरुस्ती बारे।

श्री नरेश पुत्र स्व0 श्री नन्दू, निवासी गांव मतकेहड़, डा0 द्राहल, उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0) ने शपथ-पत्र सहित आवेदन किया है कि प्रार्थी का वास्तविक नाम नरेश पुत्र नन्दू है परन्तु प्रार्थी का नाम राजस्व अभिलेख महाल मतकेहड़/277 में नरेश कुमार पुत्र नन्दू दर्ज हो चुका है जोकि गलत दर्ज कागजात माल है। अब प्रार्थी ने राजस्व अभिलेख महाल मतकेहड़/277 में अपना नाम नरेश कुमार के स्थान पर नरेश की दुरुस्ती करने के आदेश चाहे हैं।

अतः इशतहार के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को राजस्व अभिलेख महाल मतकेहड़/277 में प्रार्थी का नाम नरेश कुमार पुत्र नन्दू के स्थान पर नरेश पुत्र नन्दू की दुरुस्ती करने बारे कोई उजर/एतराज हो तो वह असालतन/वकालतन तारीख पेशी दिनांक 28-10-2022 को प्रातः 10.00 बजे इस अदालत में हाजिर होकर अपना उजर/एतराज पेश कर सकते हैं। बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जा करके नाम दुरुस्ती दर्ज करने के आदेश पारित कर दिये जाएंगे।

यह इशतहार आज दिनांक 21-09-2022 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ है।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील मकरीड़ी, जिला मण्डी (हि0 प्र0)।

In the Court of Shri Vivek Sharma, HPAS, Sub-Divisional Magistrate-cum- Marriage Officer Solan, Tehsil & District Solan, H. P.

1. Sh. Rakesh Kashyap s/o Sh. Kapoor Chand, r/o Village Shilly, P.O. Damkari, Tehsil & District Solan (H.P.).

2. Smt. Kalpana Kashyap d/o Sh. Budh Ram w/o Sh. Rakesh Kashyap, r/o Village Shilly, P.O. Damkari, Tehsil & District Solan (H. P.).
..Applicants.

Versus

General Public

Subject.—Registration of marriage under section 8(4) of the H.P. Registration of Marriages Act, 1996 (Act No. 21 of 1997).

Whereas the above named applicants have made an application under section 8 (4) of the Himachal Pradesh Registration of Marriages Act, 1996 alongwith an affidavit stating therein that they have solemnized their marriage on 23-08-2004 at Village Shilly, P.O. Damkari, Tehsil and District Solan, H.P. but has not been found entered in the records of the Commissioner-cum-Marriage Registrar, Municipal Corporation Solan, District Solan, (H.P.).

And whereas, they have also stated that they were not aware of the laws for the registration of marriage with the Registrar of Marriages and now, therefore, necessary order for the registration of their marriage be passed so that their marriage may be registered by the concerned authority.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding the registration of the marriage of the above named applicants, they should appear before the court of undersigned on 16-10-2022 at Sub-Divisional Magistrate Officer, Solan at 10.00 A.M. either personally or through their authorized agent.

In the event of their failure to do so, orders shall be passed *ex-parte* for the registration of marriage without affording any further opportunity of being heard.

Issued under my hand and seal of the court on this 16th day of September, 2022.

Seal.

VIVEK SHARMA, HPAS,
Sub-Divisional Magistrate-cum-
Marriage Officer, Solan, (H. P.).

In the Court of Sub-Divisional Magistrate, Nalagarh, District Solan (H.P.) exercising the powers of Marriage Officer under Special Marriage Act, 1954

Case No. : / 2022

Date of Instt. : 17-09-2022

Pending for : 17-10-2022

Notice u/s 15 of the Special Marriages Act, 1954 inviting the objections of the General Public for registration of marriage.s

Notice to the General Public.

Whereas, Shri Rajesh Kumar s/o Shri Mela Ram, r/o Village Kishanpura, P.O. Gurumajra, Tehsil Baddi, District Solan (H.P.) and Smt. Sonia w/o Late Sh. Kapil Dev, r/o Village Kishanpura, P.O. Gurumajra, Tehsil Baddi, District Solan (H.P.) presently w/o Sh. Rajesh Kumar s/o Sh. Mela Ram, r/o Village Kishanpura, P.O. Gurumajra, Tehsil Baddi, Distt. Solan (H.P.) has moved an application u/s 15 of the Special Marriages Act, 1954 for registration of their marriage which was solemnized on 13th September, 2022.

And, whereas both the applicants have submitted in their application and in their affidavits that the applicant no. 1 Sh. Rajesh Kumar was unmarried, and applicant no. 2 Smt. Sonia was widow at the time of solemnization of their marriage and were major in age and having no prohibited relations to each other debarring them to marry each other. Both the applicants have requested for registration of their marriage.

Therefore, by this notice the public in general is informed that if any one has any objection regarding registration of this marriage, he may present before this court on or before 17-10-2022 for hearing of objections if any. In case no objection is received by dated 17-10-2022, it will be presumed that there is no objection to the registration of the above said marriage and the same will be registered on the said date.

Given under my hand and seal of the court on 17-09-2022.

Seal.

Sd/-
*Marriage Officer-cum- SDM,
Nalagarh, District Solan (H. P.).*

**In the court of Marriage Officer-cum-Sub-Divisional Magistrate, Kasauli,
District Solan (H.P.)**

1. Raman (Adhaar No. 2001 3153 8630) s/o Sh. Hari Chand, aged 31 years, D.O.B. 19-03-1991, r/o V.P.O Taksal, Tehsil Kasauli, Distt. Solan (H.P.).

2. Priyanka (Adhaar No. 4315 7298 0141) d/o Sh. Ramesh Kumar w/o Sh. Raman aged 25 years, D.O.B. 23-09-1996, r/o V.P.O.Taksal, Tehsil Kasauli, District Solan (H.P.)

Versus

General Public

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Sh. Raman (Adhaar No. 2001 3153 8630) s/o Sh. Hari Chand, aged 31 years, D.O.B. 19-03-1991, r/o V.P.O Taksal, Tehsil Kasauli, Distt. Solan (H.P.) (Bride groom) and Priyanka (Adhaar No. 4315 7298 0141) d/o Sh. Ramesh Kumar w/o Sh. Raman, aged 25 years, D.O.B. 23-09-1996, r/o V.P.O.Taksal, Tehsil Kasauli, District Solan (H.P.) to get their marriage registered u/s 15 of the Special Marriage Act, 1954. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage, objections in this regard should reach to this court on or before 20-10-2022 failing which the marriage shall be got registered as per the provisions of the law.

Issued on my hand and seal of the court.

Seal.

DHANBIR THAKUR (HAS),
Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H.P.).

Before Executive Magistrate, Kasauli, District Solan, H. P.

Case No. : 24/ 2021

Date of Institution : 08-08-2022

Sh. Chain Singh s/o Sh. Lachhi Ram, r/o Village Gunai, Post Office Kotbeja, Tehsil Kasauli, District Solan, (H. P.).
.. *Applicant.*

Versus

General Public

..*Respondents.*

Application under section 13(3) of Birth and Death Registration Act, 1969.

Sh. Chain Singh s/o Sh. Lachhi Ram, r/o Village Gunai, Post Office Kotbeja, Tehsil Kasauli, District Solan, H. P. has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein that his son Ganish Kaundal born on 24-03-2017 at Village Gunai, Post Office Kotbeja, Tehsil Kasauli, District Solan, H.P. but his date of birth could not be entered in the record of Gram Panchayat Kotbeja, Tehsil Kasauli, District Solan, H.P. by the applicant.

Therefore, by this proclamation the general public is hereby informed that any person having any objection for the registration of delayed date of birth of Ganish Kaundal, may submit their objections in writing in this court on or before 17-10-2022, failing which no objection will be entertained after expiry of date.

Given under my hand and seal of the court on this 17th day of September, 2022.

Seal.

Sd/-
Executive Magistrate,
Kasauli, District Solan, (H.P.).

Before Executive Magistrate, Kasauli, District Solan, H. P.

Case No. : 01/ 2021

Date of Institution : 03-02-2021

Sh. Rakesh Kumar Kanojia s/o Sh. Prem Chand Kanojia, r/o Village and Post Office Dharampur, Tehsil Kasauli, District Solan, (H.P.).
.. *Applicant.*

Versus

General Public

..*Respondents.*

Application under section 13(3) of Birth and Death Registration Act, 1969.

Sh. Rakesh Kumar Kanojia s/o Sh. Prem Chand Kanojia, r/o Village and Post Office Dharampur, Tehsil Kasauli, District Solan, H. P. has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein that his son Sh. Jugal Kanojia born on 10-09-1996 at Village and Post Office Dharampur, Tehsil Kasauli, District Solan, H.P. but his date of birth could not be entered in the record of Gram Panchayat Dharampur, Tehsil Kasauli, District Solan, H.P. by the applicant.

Therefore, by this proclamation the general public is hereby informed that any person having any objection for the registration of delayed date of birth of Sh. Jugal Kanojia may submit their objections in writing in this court on or before 17-10-2022, failing which no objection will be entertained after expiry of date.

Given under my hand and seal of the court on this 06th day of May, 2022.

Seal.

Sd/-
*Executive Magistrate,
Kasauli, District Solan, (H.P.).*

**In the court of Marriage Officer-cum-Sub-Divisional Magistrate, Kasauli,
District Solan (H.P.)**

1. Sh. Shubham Aggarwal s/o Sh. Shyam Sunder Aggarwal, r/o A-13, First floor, New Rajinder Nagar, Delhi-India, Permanent r/o 183, Arhat Bazar Kasauli, Tehsil Kasauli, District Solan (H.P.).

2. Kiran Sharma d/o Sh. Raj Kumar w/o Sh. Shubham Aggarwal, r/o Village Mel-1, P.O. Kalbog, Tehsil Kotkhair, Distt. Shimla, H.P. and after marriage A-13, First floor, New Rajinder Nagar, Delhi-India, Permanent r/o 183, Arhat Bazar Kasauli, Tehsil Kasauli, District Solan (H.P.).

Versus

General Public

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Sh. Shubham Aggarwal s/o Sh. Shyam Sunder Aggarwal, r/o A-13, First floor, New Rajinder Nagar, Delhi-India, Permanent r/o 183, Arhat Bazar Kasauli, Tehsil Kasauli, District Solan (H.P.) (Bride groom) and Kiran Sharma d/o Sh. Raj Kumar w/o Sh. Shubham Aggarwal, r/o Village Mel-1, P.O. Kalbog, Tehsil Kotkhair, Distt. Shimla, H.P. and after marriage A-13, First floor, New Rajinder Nagar, Delhi-India, Permanent r/o 183, Arhat Bazar Kasauli, Tehsil Kasauli, District Solan (H.P.) to get their marriage registered u/s 15 of the Special Marriage Act, 1954. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage, objections in this regard should reach to this court on or before 30-10-2022 failing which the marriage shall be got registered as per the provisions of the law.

Issued on 26-09-2022 under my hand and seal of the court.

Seal.

DHANBIR THAKUR (H.A.S.),
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H.P.).*

In the Court of Executive Magistrate (Naib Tehsildar) Parwanoo, District Solan (H.P.)

Case No. : 10/ 2022

Date of Instt. : 23-09-2022

Fixed for Hearing : 28-10-2022

Sh. Kamesh s/o Sh. Sattan Dass, r/o Village Buthara, P.O. Kutara, Tehsil Rohru, District Shimla, Himachal Pradesh.

Versus

General Public through : Municipal Council (Nagar Parishad) Parwanoo, Distt. Solan (H.P.)

Application under section 13(3) of H.P. Birth and Death Registration Act, 1969.

Proclamation :

Sh. Kamesh Kumar s/o Sh. Sattan Dass, r/o Village Buthara, P.O. Kutara, Tehsil Rohru, District Shimla, Himachal Pradesh has filed an application under section 13 (3) of the birth & death registration Act, 1969 alongwith letter of the Chief Medical Officer Solan, affidavits, copies of certificates and proclamation charges, stating therein that his daughter namley Kirti was born on 16-06-2019 at ESI, Hospital Parwanoo, District Solan, H.P. but her birth could not be entered in the records of Nagar Parishad, Parwanoo, District Solan (H.P.) within stipulated period. He has prayed for issuing necessary orders to the Nagar Parishad Parwanoo, District Solan (H.P.) for entering the same in the records.

Therefore, by this proclamation, the General Public is hereby informed that any person having objection regarding registering the birth of Kirti d/o Sh. Kamesh & Smt. Neena, residents of Village Buthara, P.O. Kutara, Tehsil Rohru, District Shimla (H.P.), can raise objection in this court on or before 28-10-2022, failing which no objection shall be entertained.

Given under my hand and seal on this 23rd September, 2022.

Seal.

CHATTAR SINGH,
Executive Magistrate (Naib Tehsildar),
Parwanoo, District Solan (H. P.).

ब अदालत कार्यकारी दण्डाधिकारी, परवाणू जिला सोलन, हिमाचल प्रदेश

मुकद्दमा नं० : 03 / 2022

तारीख रजुआ : 23-09-2022

तारीख पेशी : 23-10-2022

श्री अमनदीप सिंह पुत्र श्री सुखदेव सिंह, निवासी ब्लॉक नं०-6, सेक्टर-2, उप-मोहाल परवाणू, उप-तहसील परवाणू, जिला सोलन, हिमाचल प्रदेश।

बनाम

आम जनता बजरिया नगर परिषद् परवाणू

दावा अन्तर्गत धारा 8(4) विवाह पंजीकरण अधिनियम, 1996.

इश्तहार बनाम आम जनता।

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी अमनदीप सिंह पुत्र श्री सुखदेव सिंह, निवासी ब्लॉक नं०-6, सेक्टर-2, उप-मोहाल परवाणू, उप-तहसील परवाणू, जिला सोलन ने विवाह पंजीकरण अधिनियम, 1996 की धारा 8(4) के अन्तर्गत प्रार्थना-पत्र दिया है कि उसकी शादी दिनांक 13-08-2021 को श्रीमती अमनजोत कौर पुत्री श्री रघुबीर सिंह, निवासी गांव बलाड़ा खेड़ा, तहसील फतेहगढ़ साहिब, पंजाब के साथ सिख धर्म के रीति-रिवाजों के साथ हुई है। कोरोना महामारी व अपनी नौकरी की व्यस्तताओं के कारण वह शादी का इन्द्राज नगर परिषद्, परवाणू में दर्ज न करवा सके। इस मुकद्दमा में तारीख पेशी 28-10-2022 मुकर्र की गयी है।

अतः आम जनता को सूचित किया जाता है कि यदि अमनदीप सिंह पुत्र श्री सुखदेव सिंह व श्रीमती अमनजोत कौर पुत्री श्री रघुबीर सिंह की शादी का इन्द्राज नगर परिषद्, परवाणू में दर्ज करवाने बारे किसी को कोई एतराज हो तो वह दिनांक 28-10-2022 से पहले लिखित/मौखिक रूप में या स्वयं उपस्थित होकर अपना एतराज इस अदालत में पेश कर सकते हैं। अन्यथा वादी व अन्य गवाहन द्वारा आवेदन के साथ प्रस्तुत ब्यान हल्फिया व कलमबद्ध किये बयानात के आधार पर दिनांक 28-10-2022 को उक्त शादी के पंजीकरण हेतु आगामी कार्यवाही अमल में लाई जाएगी। तथा बाद गुजरने मियाद किसी का कोई भी एतराज काबिले समायत न होगा।

आज दिनांक को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
परवाणू, जिला सोलन, हिमाचल प्रदेश।

CHANGE OF NAME

I, Kamlesh Kumari w/o No. 164331F POELR Ramesh Chand, Village Tarinda, Post Office Kosri, Tehsil Jaisinghpur, District Kangra, Himachal Pradesh. In my husband's Navy record, my daughter name Baby wrongly entered. Correct name Preeti, D.O.B. 15-02-1999 vide affidavit dt. 19-09-2022 attested before Notarized at Palampur.

KAMLESH KUMARI,
w/o No. 164331F POELR Sh. Ramesh Chand,
Village Tarinda, Post Office Kosri,
Tehsil Jaisinghpur, District Kangra (H.P.).

CHANGE OF NAME

I, Sanjay Singh s/o Late Shri Prem Chand, r/o H. No. 24, Behind Gurudwara, P.O. Jutogh, Distt. Shimla, H.P.-171008 declare that I have changed my name from Sanjay to Sanjay Singh. All concerned may note.

SANJAY SINGH,
s/o late Sh. Prem Chand,
r/o H. No. 24, Behind Gurudwara,
P. O. Jutogh, Distt. Shimla, H.P. 171008.

CHANGE OF NAME

मैं, Aniket Soni पुत्र श्री Murari Lal Soni, निवासी Ward No. 6, House No. 404, Mathura Das Gali, Dharamshala, Distt. Kangra, Himachal Pradesh. मेरे पुत्र Pratham Soni के स्कूल के दस्तावेज में गलती से मेरा नाम Aniket और मेरी पत्नी का नाम Sunita लिखा हुआ है, जबकि मेरा सही नाम Aniket Soni और मेरी पत्नी का सही नाम Sunita Soni है। भविष्य में इसी नाम से जाना जाए।

ANIKET SONI,
s/o Sh. Murari Lal Soni,
r/o Ward No. 6, House No. 404,
Mathura Das Gali, Dharamshala,
Distt. Kangra (H.P.)

